

# EXHIBIT “A”

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF TEXAS  
3                   BEAUMONT DIVISION  
4   SHAWNTEL BREED,           )  
5   INDIVIDUALLY AND AS       )  
6   REPRESENTATIVE OF THE     )  
7   ESTATE OF DUSTIN          )  
8   KEITH JONES,               )  
9   DECEASED, AND AS NEXT     )  
10   FRIEND OF DJ AND CJ,       )  
11   MINOR CHILDREN            )  
12                   Plaintiff       )  
13                   VS.               ) CIVIL ACTION NO: 1:15-CV-190  
14                   CITY OF KIRBYVILLE,   ) JURY DEMANDED  
15                   CHIEF PAUL BRISTER,     )  
16                   AND OFFICER JOSH        )  
17                   HANCOCK OF THE CITY     )  
18                   OF KIRBYVILLE POLICE   )  
19                   DEPARTMENT,            )  
20                   INDIVIDUALLY, AND IN     )  
21                   THEIR OFFICIAL          )  
22                   CAPACITIES             )  
23                   Defendants.            )

24                   \* \* \* \* \*  
25                   ORAL AND VIDEOTAPED DEPOSITION OF  
26                   OFFICER JOSHUA C. HANCOCK  
27                   MARCH 1, 2016  
28                   \* \* \* \* \*

29                   ORAL AND VIDEOTAPED DEPOSITION OF  
30                   OFFICER JOSHUA C. HANCOCK, produced as a witness at the  
31                   instance of the PLAINTIFF, and duly sworn, was taken in  
32                   the above-styled and numbered cause on MARCH 1, 2016,  
33                   from 10:05 A.M. to 1:09 P.M., before Carly Michelle

NELL MCCALLUM & ASSOCIATES  
CARLY MICHELLE BARTON, CSR

1 Barton, CSR No. 8985, Louisiana CCR No. 2015004, in and	1 VIDEOGRAPHER:
2 for the State of Texas, reported by machine shorthand and	2 Mr. Paul Robichau
3 computer-aided transcription, at the offices of Calvert	3 COMPLETE LITIGATION SUPPORT
4 Eaves Clarke & Stelly, L.L.P., 2615 Calder Avenue,	4 490 Park Street
5 Suite 1070, Beaumont, Texas 77702, pursuant to the	5 Beaumont, Texas 77701
6 Federal Rules of Civil Procedure and the provisions	6
7 stated on the record or attached hereto.	7
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3	5

<p>1 THE VIDEOGRAPHER: We're on the record at 2 10:05. 3 (WITNESS SWORN) 4 THE REPORTER: Okay. Stipulations? 5 MR. CALVERT: Pursuant to the Rules. 6 I will state for the record that we filed an 7 objection to the subpoena duces tecum, and we'll ask that 8 that be attached as an exhibit to the deposition, 9 although, as I advised Counsel, Mr. Hancock did bring 10 some additional documents, which we did produce, and 11 those are all the documents that he has that are not 12 privileged documents. 13 MR. TURNER: Okay. 14 *** 15 OFFICER JOSHUA C. HANCOCK, 16 having been first duly sworn, testified as follows: 17 EXAMINATION 18 (10:05 A.M.) 19 BY MR. TURNER: 20 Q. Could you state your full name for the record, 21 sir. 22 A. Joshua Carrold Hancock. 23 Q. And the ladies and gentlemen of the jury can see 24 it, but could you tell them what do you do for a living? 25 A. I'm a sergeant at the police department in</p>	<p>1 us to understand later what that meant. Is that fair? 2 A. Yes. 3 Q. Okay. And, secondly -- and this will be an 4 agreement between you and I -- she can't really take down 5 two people talking at the same time. So, I will make 6 sure that I will allow you to finish your answer before I 7 ask the next question, if you'll allow me to finish my 8 question before you answer it. Is that fair? 9 A. Yes. 10 Q. Okay. Thirdly, sometimes I ask bad questions or I 11 might ask questions that you don't understand. If you 12 don't understand the question, just ask me to rephrase 13 it. I'll be happy to do that. Okay? 14 A. Okay. 15 Q. In the same vein, if you don't understand -- if 16 you don't ask me to rephrase, then I'm going to assume 17 that you understood the question I was asking you. Is 18 that fair? 19 A. Yes. 20 Q. Okay. And you understand that you took an oath? 21 A. Yes, sir. 22 Q. And you understand what that oath means? 23 A. Yes, sir. 24 Q. Okay. Now, as your Counsel was briefly talking 25 about earlier, that we did issue what's called a</p>
<p>1 Kirbyville. 2 Q. Okay. How would you like for me to refer to you? 3 Officer Hancock or Sergeant Hancock? 4 A. Josh is fine. 5 Q. Josh is fine? 6 A. Josh is fine. 7 Q. I will refer to you as Mr. Hancock. Okay? 8 A. That's fine. 9 Q. Mr. Hancock, have you ever given a deposition 10 before? 11 A. I have not. 12 Q. Okay. This is your first time? 13 A. Yes, sir. 14 Q. Okay. Well, I will give you a couple of ground 15 rules. You know, all of us have, obviously, already 16 been, you know, through depositions before. But what's 17 going on is basically -- I'm sure your Counsel has gone 18 over this -- our court reporter here is typing out 19 everything that's being said, okay, both my questions and 20 your answers. 21 And, so, we'll ask for her sanity if you will 22 do a couple of things. Okay? The first is to answer 23 verbally, you know, "yes" and "no," as opposed to 24 uh-huh's and huh-uh's or shaking or nodding of the head. 25 Okay? It's really hard for her to take it down and for</p>	<p>1 subpoena duces tecum, which, basically, asks you to 2 produce some documents for us. 3 And you did produce some documents? 4 A. Yes, sir. 5 Q. Okay. Okay. And from my review of the documents 6 that you -- that you submitted, it looks like it's an 7 e-mail conversation between you and Krissy Adams? 8 A. Yes, sir. 9 Q. Okay. All right. And that e-mail conversation 10 took place on May 14th, 2013? 11 A. I don't remember the exact date. 12 Q. If that's what it says on the -- 13 A. Yes, sir. If that's what it says on the paper, 14 yes, sir, that's correct. 15 Q. Okay. Have you and her had any other 16 conversations via e-mail aside from these that you 17 produced today? 18 A. No, sir, not that I can remember. 19 Q. Okay. And, secondly, it looks like there is a -- 20 maybe a copy of some cards with some phone numbers and 21 names on there. I'll just show it to you. 22 MR. TURNER: I'll go ahead and mark this -- 23 this production in its entirety as exhibit -- 24 (OFF-THE-RECORD CONVERSATION BETWEEN 25 MR. TURNER AND THE REPORTER)</p>

<p>1 MR. TURNER: We'll mark this as Exhibit 3 to  2 your deposition. We'll mark Exhibit 1 as your subpoena,  3 okay, your amended subpoena; and we'll mark Exhibit 2 as  4 the objections given to us by your Counsel today.  5 (EXHIBIT NOS. 1 THROUGH 3 MARKED)  6 Q. (BY MR. TURNER) Okay?  7 A. Okay.  8 Q. Okay. Now, could you just -- I'm giving you what  9 I've marked as Exhibit 3 to your deposition, the last  10 page is marked 000309 (tendering).  11 What is this? What am I looking at right  12 here?  13 A. This here, from what I can remember, this was the  14 family of Dustin's. They had come in to speak to me. I  15 took down their phone numbers for cell, office, and  16 another cell phone number, and then they left me their  17 business cards with some information on it.  18 Q. Okay.  19 A. This here is just notes that I had taken on times  20 as the incident occurred. I've got marked as (reading):  21 Video, Calls to 911, and then the Call Logs. This --  22 this shows the checked-out time, the time that we called  23 pursuit, call from an individual, and then 614 is the  24 unit number of one of the deputies that checked out when  25 we called for assistance. That's his time that he</p> <p style="text-align: right;">10</p>	<p>1 Office, but I did note that it said "Call from  2 individual."  3 Q. Okay.  4 A. I don't know exactly what it was, though.  5 Q. And then "9:15, 614." You said that that was the  6 checkout time for another unit?  7 A. Yes, sir. 614 is the unit number for the deputy  8 that come out.  9 Q. Okay. And all these times are in the a.m.?  10 A. Yes, sir.  11 Q. Okay. And, so, this 9:15 time would be your  12 estimate of when Unit 614 arrived at the scene?  13 A. Yes, sir.  14 Q. Okay. And am I correct that all these are  15 estimates or were you looking at your watch when this  16 stuff happened?  17 A. No, sir. I was not looking at my watch. They are  18 all estimates.  19 Q. Okay. "Christy," that phone number there, is that  20 the witness on the scene?  21 A. I believe so. I believe that's Ms. Adams' phone  22 number.  23 Q. Okay.  24 A. I've got it noted as "witness," and that was the  25 only witness that I knew of, and then her e-mail address.</p> <p style="text-align: right;">12</p>
<p>1 checked out.  2 Q. Okay. So, let's go over this real quick. Okay.  3 So, the video -- and that's the video that was taken by  4 Krissy Adams?  5 A. I'm not absolutely for sure --  6 Q. Okay.  7 A. -- what -- what that video is.  8 Q. Okay. Checkout time 9:02, tell me what that  9 represents again.  10 A. The time that we checked out on the call, on the  11 incident.  12 Q. Okay. So, this was the time that you left the  13 actual Kirbyville Police Department office or --  14 A. Normally the checkout time is whenever we arrive  15 on scene.  16 Q. Okay. All right. And then 9:04 is what time you  17 said the pursuit began?  18 A. What I got noted here was the check for pursuit.  19 That would be the time that I called pursuit on the radio  20 for foot pursuit.  21 Q. Okay. All right. 9:10, it says -- what does it  22 say there?  23 A. My -- my notes say "Call from individual." I  24 don't know exactly what that is. I would have to go back  25 and check the actual call spring from the Sheriff's</p> <p style="text-align: right;">11</p>	<p>1 Q. Okay. And the last one is her e-mail address?  2 A. Yes, sir.  3 Q. Okay. Thanks.  4 Okay. Now, you are aware that I do represent  5 Dustin Jones and his family in the lawsuit that was filed  6 against you and the City of Kirbyville and the  7 Kirbyville Police Department?  8 A. Yes, sir.  9 Q. And at least for the purposes of this deposition,  10 that we are on opposite sides?  11 A. Yes, sir.  12 Q. Okay. I like to give a little kind of roadmap as  13 to where I go when I take depositions, just so you know.  14 First, we'll talk about you a little bit, background  15 information about you, you know, your name, your -- where  16 you are from -- that kind of thing -- work history,  17 education history. Okay?  18 Then after that, we'll talk a little bit  19 about your training history with Kirbyville Police  20 Department. Then we will talk a little bit about, you  21 know, the rules of the road when it comes to being a  22 police officer and what that is all about. And then we  23 will talk about this incident.  24 And then after that, I might have, you know,  25 some random questions for you. Okay?</p> <p style="text-align: right;">13</p>

1 **A. Okay.**  
2 Q. I will tell you, if there's ever anything that you  
3 don't remember, I don't want you guessing. Just tell me  
4 that you don't remember. Okay?  
5 Also, this is not an endurance contest. So,  
6 if you need to take a break, you know, I just ask that  
7 you finish the last question I ask and then you can take  
8 a break and do whatever. Okay?  
9 **A. Okay.**  
10 Q. All right. So, let's get started. You already  
11 told us your name.  
12 What is your date of birth, sir?  
13 **A. [REDACTED]**  
14 Q. And where were you born at?  
15 **A. Nederland, Texas.**  
16 Q. Did you grow up in Nederland?  
17 **A. No, Silsbee.**  
18 Q. Silsbee.  
19 **A. And then several other places. Do you want me to**  
20 **tell you where all I was from?**  
21 Q. No. No. No. No.  
22 **A. Okay.**  
23 Q. Where did you go to high school at?  
24 **A. Port Neches.**  
25 Q. Okay. Okay. Did you graduate from Port Neches?

14

1 Q. What's your wife's name?  
2 **A. Stacey.**  
3 Q. Stacey.  
4 **A. S-T-A-C-E-Y, Hancock.**  
5 Q. Do you have any children?  
6 **A. Three.**  
7 Q. Okay. Are they minors?  
8 **A. Yes.**  
9 Q. Okay. And I don't need their names, but can you  
10 tell me are they two girls, a boy, what?  
11 **A. Two boys, one girl.**  
12 Q. Two boys, one girl.  
13 Is the boy the oldest?  
14 **A. He is.**  
15 Q. Okay. Do you have any family members that reside  
16 in either Jefferson, Hardin County, Orange County --  
17 yeah, Orange County -- with the last name other than  
18 Hancock?  
19 **A. My mom's last name is not Hancock anymore.**  
20 Q. Okay. What is your mom's last name?  
21 **A. Her last name is Gordy now, G-O-R-D-Y.**  
22 Q. Okay. Anybody else?  
23 **A. My Uncle Terry, he lived in Nederland, but I don't**  
24 **think he's living in Nederland anymore. I don't know**  
25 **where he is living at.**

16

1 **A. A GED.**  
2 Q. Okay. And what institution did you get your GED  
3 from? What institute did you get your GED from?  
4 **A. I don't remember. I don't -- I would have to**  
5 **look.**  
6 Q. Okay. When did you get your GE- -- GED?  
7 **A. Senior year.**  
8 Q. What year would that be?  
9 **A. I don't remember that either.**  
10 Q. Okay. 1984. Maybe 2003? Would that sound about  
11 right?  
12 **A. I don't remember, I really don't.**  
13 Q. Okay. Okay. Have you done any -- any type of  
14 coursework or, you know, educational work after you  
15 received your GED?  
16 **A. Yes.**  
17 Q. What's that?  
18 **A. Criminology at LIT, terrorism law, I took a course**  
19 **in it. And I would have to look on the others to see**  
20 **what they were.**  
21 Q. Did you receive any type of degree or certificate  
22 from LIT?  
23 **A. No, sir.**  
24 Q. Okay. Are you currently married?  
25 **A. Yes, sir.**

15

1 Q. Okay. And I will tell you, I am just asking you  
2 because, you know, in case this case -- in case this case  
3 goes to a trial, you know, we don't want anybody, any of  
4 your family members --  
5 **A. Right.**  
6 Q. -- on the jury.  
7 So -- so, all you can think of is Gordy right  
8 now?  
9 **A. Yes, sir.**  
10 Q. Okay. Okay. Now, what was the first job that you  
11 held after you got your GED?  
12 **A. I had a wrecker service in -- south end of**  
13 **Jasper County.**  
14 Q. What was the name of that wrecker service?  
15 **A. Topline, T-O-P-L-I-N-E.**  
16 Q. And were you the owner/operator?  
17 **A. Me and my dad.**  
18 Q. Okay. How long -- how long did you and your dad  
19 have the wrecker service?  
20 **A. A couple of years.**  
21 Q. Okay. And what was the next job that you held  
22 after the wrecker service -- well, first of all, what  
23 happened with the wrecker service? Y'all just...  
24 **A. It wasn't doing very well. So, I decided to go to**  
25 **the police academy and he went back to his business,**

17

<p>1 house moving.</p> <p>2 Q. Okay. Okay. Where did you go to the police</p> <p>3 academy at?</p> <p>4 A. LIT.</p> <p>5 Q. LIT.</p> <p>6 Did you graduate from the police academy</p> <p>7 there?</p> <p>8 A. I did.</p> <p>9 Q. Do you remember about when you graduated from the</p> <p>10 police academy?</p> <p>11 A. 2006.</p> <p>12 Q. Okay. Okay. How long is -- is the program at LIT</p> <p>13 for the police academy? How long does it last?</p> <p>14 A. About six months.</p> <p>15 Q. Okay. What kind of things did you learn in that</p> <p>16 six months?</p> <p>17 A. Well, Penal Code, Code of Criminal Procedure,</p> <p>18 Traffic Code, use of force, constitution. I can't think</p> <p>19 of everything that we -- that we went through. It was so</p> <p>20 much.</p> <p>21 Q. Did y'all do any type of self-defense training at</p> <p>22 LIT?</p> <p>23 A. We did.</p> <p>24 Q. And you said that y'all -- one of the -- one of</p> <p>25 the things that y'all learned about while you were there</p> <p>18</p>	<p>1 patrol sergeant in Newton County. So, right up until the</p> <p>2 last year that I was there.</p> <p>3 Q. Okay. And what's the difference between a patrol</p> <p>4 deputy and a patrol sergeant?</p> <p>5 A. With Newton County, not a whole lot. I still</p> <p>6 answered calls. I was just responsible for all the</p> <p>7 deputies that were out on the street.</p> <p>8 Q. And what responsibilities did you have with regard</p> <p>9 to those deputies?</p> <p>10 A. Making sure their cases were put together, making</p> <p>11 sure they had all their equipment that they had, if they</p> <p>12 got into a situation that they didn't know about or were</p> <p>13 unsure about, they called me for assistance, for help.</p> <p>14 Q. Is patrol sergeant a -- a promotion from a</p> <p>15 narcotics officer?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. Okay. Do you know why you were at -- okay.</p> <p>18 I'm sorry.</p> <p>19 Was -- was patrol sergeant the last job that</p> <p>20 you held while you were in Newton County?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. As a -- as a peace officer?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. Now, it's my understanding that after you</p> <p>25 were a patrol sergeant, you were a jailer for a while.</p> <p>20</p>
<p>1 was the use of force?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Okay.</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. Okay. And what did you do next after you</p> <p>6 graduated from the police academy?</p> <p>7 A. Went to work for Newton County Sheriff's Office.</p> <p>8 Q. Okay. What was your job title once you got to</p> <p>9 Newton County?</p> <p>10 A. I was a patrol deputy, initially.</p> <p>11 Q. And tell us what the duties are for patrol deputy.</p> <p>12 A. To respond to calls, keep the peace, more or less.</p> <p>13 Q. How long were you a patrol deputy?</p> <p>14 A. Well, for about a year, that was all that I done</p> <p>15 was patrol -- I was a patrol officer. After about a</p> <p>16 year, I was a narcotics officer.</p> <p>17 Q. Okay. And how -- how did your job duties for a</p> <p>18 narcotics officer differ from a patrol deputy?</p> <p>19 A. I still responded to calls, I still answered</p> <p>20 calls. It was -- the narcotics officer was more based on</p> <p>21 drugs than it was anything, control of drugs.</p> <p>22 Q. Okay. And how long were you a narcotics officer?</p> <p>23 A. I don't remember how exactly long that it was.</p> <p>24 Q. Uh-huh.</p> <p>25 A. Right before I left Newton County I was made the</p> <p>19</p>	<p>1 Is that true?</p> <p>2 A. No. It was at the same time. In Newton County</p> <p>3 we -- we didn't have a big jail staff. So, we were</p> <p>4 responsible for booking in our own inmates. So, the</p> <p>5 Sheriff sent us all to jail school. That's why we become</p> <p>6 jailers.</p> <p>7 Q. Okay. So, I saw some documents that you guys</p> <p>8 produced and it said that those are -- you know, that you</p> <p>9 were a jail officer. So, at the time where it says "jail</p> <p>10 officer," you also would have been a patrol sergeant as</p> <p>11 well?</p> <p>12 A. I would have to look and see what the date was</p> <p>13 that I received my jailer's license.</p> <p>14 Q. Okay.</p> <p>15 A. But, like I said, the Sheriff sent us all to jail</p> <p>16 school to become jail certified so we could book in our</p> <p>17 own inmates and we would --</p> <p>18 Q. And would -- I'm sorry. Tell me what the language</p> <p>19 is. It's jail what? The exact, it's called a jail</p> <p>20 officer or jail...</p> <p>21 A. A jailer is what we called it.</p> <p>22 Q. A jailer? Okay.</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. Now, is being a jailer, is that a</p> <p>25 promotion, demotion from being a patrol sergeant or is</p> <p>21</p>

<p>1 it --</p> <p>2 <b>A. It's -- it's neither in that circumstance because</b></p> <p>3 <b>it was just a license that we held so we could book</b></p> <p>4 <b>people in jail. We were still all deputies. Every one</b></p> <p>5 <b>of the deputies, including the supervision, went through</b></p> <p>6 <b>jail school.</b></p> <p>7 Q. Uh-huh.</p> <p>8 <b>A. So, we didn't actually change job titles. We just</b></p> <p>9 <b>received a license to be a jailer.</b></p> <p>10 <b>(EXHIBIT NO. 4 MARKED)</b></p> <p>11 Q. (BY MR. TURNER) Okay. I want to show you, it's a</p> <p>12 "F5 History Report" for Joshua Hancock.</p> <p>13 MR. TURNER: It's -- it is Kirbyville --</p> <p>14 it's identified by Bates -- Bates marked as</p> <p>15 "Kirbyville 000214." I will make this a fourth -- is it</p> <p>16 4?</p> <p>17 THE REPORTER: Uh-huh.</p> <p>18 MR. TURNER: Fourth exhibit to your</p> <p>19 deposition.</p> <p>20 You want to see this?</p> <p>21 MR. CALVERT: Okay.</p> <p>22 Q. (BY MR. TURNER) Okay. Okay. You see -- you see</p> <p>23 what I'm saying there, is that right here it says from,</p> <p>24 basically, 2007 until 2012, Newton County Sheriff's</p> <p>25 officer -- I'm sorry -- Sheriff's Office, Peace Officer,</p> <p style="text-align: right;">22</p>	<p>1 MR. CALVERT: Object to the form.</p> <p>2 MR. TURNER: Okay.</p> <p>3 MR. CALVERT: He testified he wasn't just a</p> <p>4 jailer. So --</p> <p>5 MR. TURNER: Oh, okay.</p> <p>6 MR. CALVERT: I'm not objecting to the date</p> <p>7 issue.</p> <p>8 Q. (BY MR. TURNER) Okay. So -- but at least for --</p> <p>9 as for the date, that would have been the end of the date</p> <p>10 where you were working with Newton County Sheriff's</p> <p>11 Office?</p> <p>12 <b>A. Yes, sir.</b></p> <p>13 Q. Okay. Are you aware of any complaints that were</p> <p>14 lodged against you while you were working at</p> <p>15 Newton County Sheriff's Office?</p> <p>16 <b>A. No, sir.</b></p> <p>17 Q. Are you aware of any lawsuits that were filed --</p> <p>18 filed against you for excess of force while you were at</p> <p>19 the Newton County Sheriff's Office?</p> <p>20 <b>A. No, sir.</b></p> <p>21 Q. Okay. What's the next place you worked after --</p> <p>22 after Newton County?</p> <p>23 <b>A. Kirbyville Police Department.</b></p> <p>24 Q. Okay. And do you still currently work for</p> <p>25 Kirbyville Police Department?</p> <p style="text-align: right;">24</p>
<p>1 Peace Officer license; is that correct?</p> <p>2 <b>A. Yes, sir.</b></p> <p>3 Q. All right. And then the next thing it has, you</p> <p>4 know, as of November -- yeah, November -- I'm sorry.</p> <p>5 December 16th, 2011, Newton County Sheriff's Office</p> <p>6 jailer/jailer license. Right.</p> <p>7 And, so, at this point you would also have</p> <p>8 been a patrol sergeant as well? I guess that's my</p> <p>9 question.</p> <p>10 <b>A. In 2011, yes.</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. Yes, sir. And it was just a jailer's license. I</b></p> <p>13 <b>wasn't actually designated as a jailer.</b></p> <p>14 Q. Okay. Okay. I just asked that question because</p> <p>15 going -- going through the paperwork, at least that we</p> <p>16 got, I never saw a designation as a -- as a patrol</p> <p>17 sergeant, but you don't know why that is or why that's</p> <p>18 not...</p> <p>19 <b>A. No, sir, I wouldn't be able to answer that.</b></p> <p>20 Q. Okay. All right. And going back to this</p> <p>21 document. It says that you had stopped -- the end date</p> <p>22 for you being a jailer was November 9th of 2012.</p> <p>23 Would that also have been around the end date</p> <p>24 of you -- your work for Newton County Sheriff's Office?</p> <p>25 <b>A. Yes, sir.</b></p> <p style="text-align: right;">23</p>	<p>1 <b>A. Yes, sir.</b></p> <p>2 Q. Okay. Before we talk about your work with</p> <p>3 Kirbyville, let me ask you this question: What made you</p> <p>4 decide to become a police officer?</p> <p>5 <b>A. Well, I wanted to help people.</b></p> <p>6 Q. Is there any reason why, you know, a police</p> <p>7 officer as opposed to a nurse or opposed to some other</p> <p>8 job that helps people?</p> <p>9 <b>A. Well, that's kind of a hard question. As a police</b></p> <p>10 <b>officer, I'm also a fireman and a first responder. So, I</b></p> <p>11 <b>do a little bit of it -- of it all. It kind of gives me</b></p> <p>12 <b>a wide range of stuff that I can do to help people.</b></p> <p>13 Q. Okay. Do you recall when you began your</p> <p>14 employment with -- with the Kirbyville Police Department?</p> <p>15 <b>A. I don't remember the exact date.</b></p> <p>16 Q. Do you remember the year?</p> <p>17 <b>A. I believe it was '12, just short time after I left</b></p> <p>18 <b>Newton.</b></p> <p>19 Q. What was the reason why you left Newton County?</p> <p>20 <b>A. Employment for the Kirbyville Police Department.</b></p> <p>21 Q. Okay. So, the only reason was because you thought</p> <p>22 Kirbyville was a better job or was getting paid more?</p> <p>23 <b>A. At the time, yes.</b></p> <p>24 Q. Okay. So, there were no problems at Newton County</p> <p>25 that made you leave?</p> <p style="text-align: right;">25</p>



1 A. No, sir.  
2 Q. Okay. When you began working for Kirbyville, what  
3 was your job title?  
4 A. I was just a patrol officer.  
5 Q. Patrol officer.  
6 And your duties as a patrol officer for  
7 Kirbyville, were they about the same as your job duties  
8 for -- as a patrol officer with Newton County?  
9 A. Well, the only addition was that we -- we enforced  
10 the traffic code more in Kirbyville. We write more  
11 tickets than we did in Newton County.  
12 Q. And why is that? Why -- why is that? I mean, was  
13 that something that somebody told you-all to do or was  
14 that just a part of the policy in Kirbyville or...  
15 A. Well, we don't have a policy for writing tickets.  
16 It's just one of our job duties.  
17 Q. Do you feel like there were more traffic  
18 infringements in Kirbyville than there were in Newton?  
19 A. I do.  
20 Q. Okay. Okay. How long were you a -- how long were  
21 you a patrol officer with Kirbyville Police Department?  
22 A. I don't remember exactly how long.  
23 Q. Okay. Did you eventually move to another  
24 position?  
25 A. To patrol sergeant.

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1 Q. Okay. As patrol sergeant with Kirbyville, how  
2 many officers were you -- well, let me ask you this  
3 first: Were the job duties as a patrol sergeant in  
4 Kirbyville about the same as they were in Newton or were  
5 they different?  
6 A. Whenever it come to dealing with employees with  
7 the -- the other officers, yes. I have more office  
8 duties with Kirbyville than I had with Newton.  
9 Q. When you say "office duties," what do you mean?  
10 A. I keep up with the Uniform Crime Report for  
11 Kirbyville, as well as the evidence room. I did not have  
12 that in Newton County.  
13 Q. Okay. As patrol sergeant were you still  
14 responsible for patrol officers?  
15 A. Yes.  
16 Q. Okay. How many patrol officers were you  
17 responsible for at Kirbyville?  
18 A. Now in Kirbyville?  
19 Q. Well, let's -- let's say on May 14th, 2013.  
20 A. Just two at the time.  
21 Q. Two.  
22 And tell me again what your responsibilities  
23 were with regard to those two officers.  
24 A. Made sure that they keep their cases. I would put  
25 their cases together and bring them to the District

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1 Attorney's office. I kept up with their equipment in  
2 their vehicles. I made sure their vehicles were running  
3 properly. If they had any issues that they needed to be  
4 addressed with equipment or vehicles or work, then they  
5 would come to me for -- if they had any problems that  
6 they didn't know how to deal with, they would come to me  
7 for it.  
8 Q. How does one move from a patrol officer to a  
9 patrol sergeant in Kirbyville? Does somebody have to  
10 nominate you or, you know, or is that an appointed job or  
11 is that just a natural -- that just happens after so many  
12 years?  
13 A. It's -- it's selected by the Chief.  
14 Q. Okay. And who was the Chief that selected you to  
15 be a patrol sergeant?  
16 A. Paul Brister.  
17 Q. Okay. What is your understanding of the duties of  
18 the Police Chief of Kirbyville?  
19 A. Well, I don't understand your question.  
20 Q. Okay. What is your understanding of the  
21 responsibilities that the Police Chief has, I guess, as  
22 opposed to, say, a patrol sergeant or a patrol officer?  
23 What extra responsibilities, is it your understanding,  
24 that the Police Chief has at Kirbyville?  
25 A. He's responsible for the whole department.

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1 Q. He oversees all the officers?  
2 A. Yes, sir.  
3 Q. Set -- does he set the policies?  
4 A. Yes, sir.  
5 Q. Is he in charge of training the officers?  
6 A. He's in charge of making sure that we have  
7 training.  
8 Q. Does he choose what training that y'all have to  
9 undergo and which ones y'all don't?  
10 A. Well, he's -- he doesn't select. We have  
11 mandatory training that we are required by TCOLE that we  
12 are to take yearly. So -- but any other training the  
13 officers may want then, yes, he would send them to.  
14 Q. Is it fair to say with regard to, you know, all  
15 the officers at Kirbyville Police Department that, you  
16 know, he has the ultimate say in what goes on?  
17 A. It depends on the situation.  
18 Q. Okay. And what situations do you feel like he  
19 wouldn't or -- or would, whichever one? I'm just trying  
20 to get a more -- a better understanding.  
21 So, when wouldn't he have the ultimate say  
22 and when would he?  
23 A. Well, there were certain -- certain things with  
24 the police department that the city council would have to  
25 approve.

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<p>1 Q. Okay. Is there anything you can think of off the 2 top of your head that the city council would have to 3 approve? 4 <b>A. I can't -- I know purchasing is one. I can't 5 think of all of them.</b> 6 Q. So, maybe more budgetary concerns? 7 <b>A. Some of them, yes, sir.</b> 8 Q. Okay. I guess but with how the actual police 9 department is -- is ran, that's something that 10 Chief Brister would have the most say over? 11 <b>A. Correct.</b> 12 Q. Okay. At the time when this incident happened on 13 May 14th of 2013, you were a patrol sergeant? 14 <b>A. Yes, sir.</b> 15 Q. Okay. Excuse me. When you moved from 16 Newton County to Kirbyville, did you have to go -- did 17 you have to undergo any special or additional training? 18 <b>A. The move from the sheriff's office to the police 19 department?</b> 20 Q. The move from Newton County to Kirbyville. Did 21 Kirbyville require you to do any additional training? 22 <b>A. No, sir.</b> 23 Q. Okay. Let's talk about the training that you did 24 while you were at Newton. You talked -- you talked about 25 you had some use of force -- wait. Hold on. Let's talk</p> <p style="text-align: right;">30</p>	<p>1 Q. Okay. And at what point would you say somebody is 2 in custody? When the handcuffs are put on them? When, 3 you know -- I guess, how do you know when somebody is in 4 custody as opposed to just being detained? 5 <b>A. If I -- if I've told you "I'm placing you under 6 arrest," I would consider that, that you are in custody.</b> 7 Q. Okay. Okay. And I want to talk to you about use 8 of force, but I am going to break this down in two 9 different categories: Just use of force and then use of 10 deadly force. Okay? 11 Is that a fair separation? 12 <b>A. Yes.</b> 13 Q. Okay. When is it your understanding that officers 14 are allowed to -- to use force in order to help them 15 either detain or -- well, let me ask you this first -- 16 strike that. 17 Let me ask you this question first: Are you 18 guys allowed to use force in order to detain a suspect? 19 <b>A. Depending on the detention.</b> 20 Q. Okay. Why don't you tell me about that? 21 <b>A. Well, there's such a wide range. It would depend 22 on the circumstance, would be what I'm referring to.</b> 23 Q. Okay. 24 <b>A. Just detaining somebody on a traffic stop? No, we 25 wouldn't use force for that.</b></p> <p style="text-align: right;">32</p>
<p>1 about training. 2 Could you tell me what type of training -- 3 well, first of all, when you went to Newton County, did 4 you undergo any special training outside of what you had 5 underwent at LIT at the police academy? 6 <b>A. No, sir.</b> 7 Q. Okay. So, what did the -- what do you recall 8 about what the police academy trained -- trained you with 9 regard to use of force? And we will -- I will limit it 10 down to use of force while attempting to make an arrest. 11 <b>A. I don't understand your question exactly. Are you 12 wanting the entire for use of force? It would all depend 13 on the situation.</b> 14 Q. Okay. Let's -- let's do it like this. I might -- 15 I think that I might be a little bit off on some -- some 16 definitions. So, let's -- let's -- we'll go through it 17 like that. Okay? 18 <b>A. Okay.</b> 19 Q. What is the difference between a detention and an 20 arrest, or is there a difference? 21 <b>A. Well, yes. Detention, if you were being 22 stopped -- if you were being pulled over on the side of 23 the road, say, for a traffic offense, that's a detention. 24 An arrest would be if I was to take you into custody for 25 an offense that occurred.</b></p> <p style="text-align: right;">31</p>	<p>1 Q. Okay. 2 <b>A. It would just depend.</b> 3 Q. Okay. So, generally -- in which we are talking in 4 generalities, right, unless something crazy happened, 5 right, unless somebody at a traffic stop pulled out a 6 knife, or something like that. Generally when you are 7 just trying to detain somebody, use of force is generally 8 not necessary. Is that -- is that a fair statement? 9 <b>A. Yes.</b> 10 Q. Okay. Okay. And, so, generally, use of force in 11 a traffic stop would not be okay, you know, with 12 Kirbyville Police Department? 13 <b>A. Yes.</b> 14 Q. Okay. So, now, when it comes to arrests, again, 15 you, obviously, you don't want to -- is it fair to say 16 you obviously don't want to use force, unless you have 17 to, to make an arrest. Is that a fair statement? 18 <b>A. Yes.</b> 19 Q. Okay. But -- but it's more allowable, I guess, to 20 use force in an arrest than just than while -- while a 21 person is under detention. Is that fair? 22 <b>A. I don't understand your question --</b> 23 Q. Okay. 24 <b>A. -- what your...</b> 25 Q. It might have been a bad question.</p> <p style="text-align: right;">33</p>

<p>1 Well, let me ask you this -- a different 2 question. When you are trying to make an arrest, under 3 what circumstances, is it your understanding, that use of 4 force is okay?</p> <p>5 <b>A. That would be another one that would depend on the</b> 6 <b>circumstance. If -- depending on what the person is</b> 7 <b>doing, whether use of force or what use of force was</b> 8 <b>needed.</b></p> <p>9 Q. Okay. So, I guess that's what I'm asking. In 10 what circumstances would you say, okay, under this 11 circumstance use of force is -- is okay?</p> <p>12 <b>A. If a person is resisting arrest, there's a mound</b> 13 <b>of use of force, it would depend on what type of</b> 14 <b>resistance. The -- them having a weapon would be</b> 15 <b>justified for use of force, depending on what kind of</b> 16 <b>weapon and what threat they are to you.</b></p> <p>17 <b>Based on the threat that they are to you or</b> 18 <b>to someone else would determine use of force.</b></p> <p>19 Q. Okay. Okay. And, so, what I got -- what I wrote 20 down is use of force to make an arrest is okay when the 21 person is resisting arrest, when they use some type of 22 force against you, if they have a weapon and maybe they 23 are threatening you with a weapon, or if they just 24 threaten the officer in general -- or if they -- let me 25 say it a different way -- if they are a threat to the</p> <p style="text-align: right;">34</p>	<p>1 <b>A. Whatever force is necessary to make the arrest.</b> 2 <b>It would -- it all depends on the circumstance.</b></p> <p>3 Q. Okay. And, again, I'm not talking about use of 4 deadly force. I'm just talking about use of force.</p> <p>5 <b>A. Right.</b></p> <p>6 Q. You know, if you are trying to arrest somebody and 7 they try to evade the arrest, at that point, under 8 Kirbyville's rules or policies or customs, is it okay to 9 use force in order to -- to make the arrest?</p> <p>10 <b>A. The minimal amount of force, yes.</b></p> <p>11 Q. And would you say that that is generally true, 12 that no matter what type of force you are using, you need 13 to use the minimum amount of force in order to -- to make 14 the arrest or make the detention, or whatever?</p> <p>15 <b>A. Correct.</b></p> <p>16 Q. Okay. And that's just true as a police officer 17 generally?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Could you define resisting arrest for me?</p> <p>20 <b>A. I don't have the definition for it. Do you --</b></p> <p>21 Q. In your own words.</p> <p>22 <b>A. If I have advised somebody that they are going to</b> 23 <b>be placed under arrest and they begin to try and get away</b> 24 <b>from me, pull away, anything other than comply with what</b> 25 <b>they are being arrested for.</b></p> <p style="text-align: right;">36</p>
<p>1 officer or to the public at large.</p> <p>2 Is that -- is that a good sum up of the times 3 when you feel like it's okay to use force during arrest?</p> <p>4 <b>A. It all depends -- it all depends on the</b> 5 <b>circumstance.</b></p> <p>6 Q. Okay. But in those four circumstances, you would 7 say that it's okay to use force?</p> <p>8 <b>A. Could you read them to me again?</b></p> <p>9 Q. Yeah. When they are resisting arrest, when they 10 use some type of -- when they use some type of force 11 against you, if they have a weapon, or if they make some 12 type of threat against you or against the public 13 generally.</p> <p>14 <b>A. Depending on the threat that they are making</b> 15 <b>would -- would determine whether use of force. If it's</b> 16 <b>just verbal, then, no, there wouldn't be use of force.</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. If they had -- if they had one of the others, a</b> 19 <b>weapon and they were making a threat towards someone</b> 20 <b>else, then yes.</b></p> <p>21 Q. Okay. What about if a person is attempting to 22 evade arrest, is use of force okay at that point in 23 Kirbyville?</p> <p>24 <b>A. If all they are doing is evading?</b></p> <p>25 Q. (Nodding head up and down)</p> <p style="text-align: right;">35</p>	<p>1 Q. Okay. I assume, but you tell me, does resisting 2 arrest -- I assume that resisting arrest is done 3 physically as opposed to verbally? I mean, if -- to kind 4 of clarify my question. If you are arresting somebody 5 and they were saying, no, no, no, I don't want to be 6 arrested, I don't want to be arrested, but, you know, 7 they were complying while you put the handcuffs on them, 8 would you consider that to be resisting arrest?</p> <p>9 <b>A. No, sir.</b></p> <p>10 Q. Okay. So, it has to be some type of physical 11 elements to resisting arrest?</p> <p>12 <b>A. Yes, sir.</b></p> <p>13 Q. Okay. "Imminent threat of serious bodily injury 14 or death." We'll break that down just a little bit.</p> <p>15 And -- are you familiar with that phrase?</p> <p>16 <b>A. Yes, sir.</b></p> <p>17 Q. Okay. In that phrase, what does "imminent" mean 18 to you?</p> <p>19 <b>A. Imminent?</b></p> <p>20 Q. Uh-huh.</p> <p>21 <b>A. That you are on the verge of it happening.</b></p> <p>22 Q. And to you would that be -- would that be a matter 23 of, you know, if it's going to happen 30 minutes from 24 now, would you consider that to be imminent?</p> <p>25 <b>A. No, sir.</b></p> <p style="text-align: right;">37</p>

<p>1 Q. Okay. If it's going to happen a couple of minutes</p> <p>2 from now, would you consider that to be imminent?</p> <p>3 <b>A. Depending on the circumstance.</b></p> <p>4 Q. Okay. But definitely if it's going to happen in a</p> <p>5 matter of seconds, that's -- that's really what the</p> <p>6 imminent he was talking about?</p> <p>7 <b>A. Yes, sir.</b></p> <p>8 MR. CALVERT: Object to the form.</p> <p>9 Q. (BY MR. TURNER) Okay. And "serious bodily</p> <p>10 injury." What is your understanding of what -- what</p> <p>11 constitutes serious bodily injury in that -- in that</p> <p>12 phrase?</p> <p>13 <b>A. Well, an injury that would be considered serious.</b></p> <p>14 <b>It would be depending on what you are referring to.</b></p> <p>15 <b>Broken bones, severe cuts, lacerations. It would just</b></p> <p>16 <b>depend.</b></p> <p>17 Q. You wouldn't consider being bruised, that's not a</p> <p>18 serious bodily injury?</p> <p>19 <b>A. No, I wouldn't.</b></p> <p>20 Q. Okay. Would it be fair to say that a serious</p> <p>21 bodily injury is a bodily injury that's going to have</p> <p>22 some type of, maybe, lasting effect on the person who the</p> <p>23 injury happens to?</p> <p>24 <b>A. That depends, too. Some serious bodily injuries</b></p> <p>25 <b>don't have a long-lasting effect. It would depend on the</b></p> <p style="text-align: right;">38</p>	<p>1 <b>are armed or unarmed, would be probably the best way.</b></p> <p>2 Q. You said "whether they are armed or unarmed," is</p> <p>3 one of the best ways?</p> <p>4 <b>A. And the manner in which they are acting, yes.</b></p> <p>5 Q. Okay. And, so, those two go together kind of?</p> <p>6 <b>A. Well, you can be a threat to somebody else even</b></p> <p>7 <b>unarmed, depending on how that you are acting.</b></p> <p>8 Q. And you could be armed and not --</p> <p>9 <b>A. And not be a threat.</b></p> <p>10 Q. -- and not be a threat?</p> <p>11 <b>A. That's right.</b></p> <p>12 Q. Okay. One way you would know if somebody poses a</p> <p>13 serious threat to others is if they say, "When I get out</p> <p>14 of here, I'm going to go do something bad towards</p> <p>15 somebody else"?</p> <p>16 <b>A. Re- -- re- -- say it again.</b></p> <p>17 Q. Yeah. Sure.</p> <p>18 One of the ways that you know whether or not</p> <p>19 a person is going to be a serious threat to himself or</p> <p>20 others is maybe if they say it, you know, they say</p> <p>21 either, "If I get out of here I am going to kill myself,"</p> <p>22 or "If I get out of here I'm going to kill somebody</p> <p>23 else"? That's one of the ways that you could tell if a</p> <p>24 person is --</p> <p>25 <b>A. Not always.</b></p> <p style="text-align: right;">40</p>
<p>1 <b>person, I would think. It would just depend. Depending</b></p> <p>2 <b>how long you are referring to as a long time.</b></p> <p>3 Q. Okay. Well, let me ask you -- let me ask the</p> <p>4 question you just posed. What serious bodily injury do</p> <p>5 you think applies with this phrase that wouldn't have a</p> <p>6 lasting effect on an individual?</p> <p>7 <b>A. Impeding someone's breath, that -- I mean, it</b></p> <p>8 <b>would just depend. I don't know them all, but I am sure</b></p> <p>9 <b>there are a few.</b></p> <p>10 Q. You feel like impeding someone's breath is a</p> <p>11 serious bodily injury?</p> <p>12 <b>A. Could be, yes.</b></p> <p>13 Q. Okay. And you said it "could be." Would you say</p> <p>14 generally it is or generally it is not?</p> <p>15 <b>A. When somebody is not breathing, that is pretty</b></p> <p>16 <b>serious. I would think so.</b></p> <p>17 Q. Okay. And the phrase is "imminent threat of</p> <p>18 serious bodily injury or death." We all know what death</p> <p>19 is, right?</p> <p>20 <b>A. Correct.</b></p> <p>21 Q. Okay. Okay. "Poses a serious threat to himself</p> <p>22 or others." What factors do you use in order to</p> <p>23 determine whether or not a person "poses a serious threat</p> <p>24 to himself or others"?</p> <p>25 <b>A. The manner in which they are acting, whether they</b></p> <p style="text-align: right;">39</p>	<p>1 Q. Okay. Why don't you explain?</p> <p>2 <b>A. Well, some people will say things like that just</b></p> <p>3 <b>to -- while they are enraged or mad that they will say</b></p> <p>4 <b>things that they don't mean. Just because they say it,</b></p> <p>5 <b>don't mean that they are going to do it.</b></p> <p>6 Q. And, so, is your job as a police officer to judge</p> <p>7 the situation and --</p> <p>8 <b>A. To determine --</b></p> <p>9 Q. -- to make the determination -- I'm sorry -- to</p> <p>10 make the determination of whether or not, regardless of</p> <p>11 what they say, they are actually a serious threat?</p> <p>12 <b>A. Yes, sir.</b></p> <p>13 Q. Okay. Do you know what the definition of deadly</p> <p>14 force is?</p> <p>15 <b>A. I don't know the definition.</b></p> <p>16 Q. Okay. What is your definition?</p> <p>17 <b>A. Of deadly force? It would be to cause death. It</b></p> <p>18 <b>would be a use of force that would cause death.</b></p> <p>19 <b>Q. Can a person use deadly force without intending to</b></p> <p>20 <b>cause death?</b></p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Okay. Okay.</p> <p>23 MR. TURNER: How long have we been going for?</p> <p>24 (OFF-THE-RECORD DISCUSSION BETWEEN MR. TURNER</p> <p>25 AND THE REPORTER)</p> <p style="text-align: right;">41</p>

<p>1 MR. CALVERT: Why don't we take a break real 2 quick, if that's okay? 3 MR. TURNER: That's fine. 4 THE VIDEOGRAPHER: We are off the record at 5 10:56. 6 (RECESS TAKEN AT 10:56 A.M. TO 11:09 A.M.) 7 THE VIDEOGRAPHER: We are back on the record 8 at 11:09. 9 Q. (BY MR. TURNER) Okay. You ready to go? 10 A. I'm ready. 11 Q. Okay. We took a quick break? 12 A. I did. 13 Q. Okay. I think we just got through talking about 14 deadly force I think a little bit; is that correct? 15 A. Yes. 16 Q. Do you know what an impact weapon is? 17 A. Yes. 18 Q. What is an impact weapon? 19 A. ASP baton. I believe there's a few more out on 20 the market that they use. 21 Q. What -- what -- I think it's a SLK flashlight, is 22 that what the -- the flashlight -- the police-issued 23 flashlight, would that be considered an impact weapon? 24 A. Depending on the circumstance. 25 Q. Okay. It could be?</p> <p style="text-align: right;">42</p>	<p>1 Q. Okay. And full gear, what is -- what all does 2 that include? 3 A. What I had on that day? 4 Q. Yes. 5 A. That day would be a -- a vest, armored vest. 6 Q. How much does the vest weigh? 7 A. Probably 15 pounds, maybe a little less. 8 Q. Armored vest. What else? 9 A. My sidearm, pair of handcuffs, a Taser, a radio, a 10 magazine, pouch with magazine. That's usually it on our 11 equipment. 12 Q. Okay. What type of firearm do you carry? 13 A. At the time or now? 14 Q. At the time. 15 A. At the time. A Glock .40 caliber. 16 Q. What size clip is there in a Glock .40 cal -- or 17 in a Glock .40 cal that you were carrying at the time 18 when this happened? 19 A. What size? 20 Q. I guess, how many bullets? 21 A. How many rounds? About 15. 22 Q. 15. 23 And you said that all of that stuff together 24 weighs about 30 -- between 20, 30 pounds, you said? 25 A. A guesstimate.</p> <p style="text-align: right;">44</p>
<p>1 A. Yes. 2 Q. Okay. How tall are you, Mr. -- Mr. Hancock? 3 A. 6'1". 4 Q. 6'1". 5 And how much do you weigh? 6 A. Now about 215. 7 Q. 215. 8 What did you weigh on May 14th, 2013? 9 A. A little under 200. 10 Q. Okay. Right now you have on standard -- is it the 11 standard equipment that the police officers at Kirbyville 12 should have on them? 13 A. I don't carry everything that the other guys 14 carry. 15 Q. Okay. All right. How much would the -- how much 16 does the equipment that you carry normally, how much does 17 that weigh? 18 A. What all equipment? Just what we keep on our belt 19 or vest included? 20 Q. Everything included. 21 A. Everything included? Anywhere from 20 to 22 30 pounds. 23 Q. Okay. On the day when this incident happened, did 24 you have, you know, full gear on? 25 A. Yes.</p> <p style="text-align: right;">43</p>	<p>1 Q. Okay. Could you -- could you tell me about how 2 much you think your radio weighs? 3 A. A couple of pounds. 4 Q. A couple of pounds. 5 One to two pounds? Would you say one to two 6 pounds? 7 A. Yes. 8 Q. Handcuffs not that much? 9 A. No, sir. 10 Q. What about your sidearm? How much would -- was 11 your gun fully loaded when this incident occurred? 12 A. Yes. 13 Q. Okay. How much would a fully -- fully-loaded 14 Glock .40 weigh, in your approximation? 15 A. Four to five pounds, maybe. 16 Q. Okay. Okay. Okay. Okay. Let's talk about a 17 couple of the rules -- rules of the road, is what I call 18 them. And it just means that, you know, things that we 19 probably could agree to. Like, for example, the job of a 20 police officer generally is to protect the peace? The 21 job of a police officer generally is to protect the 22 peace? 23 A. Yes. 24 Q. To keep people safe? 25 A. Yes.</p> <p style="text-align: right;">45</p>

<p>1 Q. Enforce the laws?</p> <p>2 A. Yes.</p> <p>3 Q. As a police officer you are aware that a suspect</p> <p>4 is innocent until proven guilty?</p> <p>5 A. Yes.</p> <p>6 Q. And that's true even if you have probable cause to</p> <p>7 arrest that person?</p> <p>8 A. Yes.</p> <p>9 Q. And you are aware that suspects have the right to</p> <p>10 be freed from excessive use of force by police officers?</p> <p>11 A. Yes.</p> <p>12 Q. And you are aware that everybody has the right to</p> <p>13 their life?</p> <p>14 A. Yes.</p> <p>15 Q. One of the things when you are trying to</p> <p>16 accomplish an arrest or detention is to do so as safely</p> <p>17 as possible?</p> <p>18 A. Yes.</p> <p>19 Q. All right. Safely for you?</p> <p>20 A. And the other person.</p> <p>21 Q. And the other person?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And other potential bystanders?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Would you agree with me that a person's -- that</p> <p style="text-align: right;">46</p>	<p>1 public at large, you would agree with me then if the</p> <p>2 options are kill -- kill the person to serve them an</p> <p>3 arrest warrant or not serve them the arrest warrant at</p> <p>4 that time, you would wait until later to serve them the</p> <p>5 arrest warrant?</p> <p>6 A. I don't understand your question completely about</p> <p>7 how that you are asking it.</p> <p>8 Q. Uh-huh.</p> <p>9 A. The only way that we would use deadly force was if</p> <p>10 it was justified. If I was trying to protect another</p> <p>11 person, myself, or someone in the public. It would just</p> <p>12 depend on the circumstance.</p> <p>13 Q. And I guess -- my question is just generally, the</p> <p>14 person's interest in being alive is greater than the</p> <p>15 Government's interest in trying to issue an arrest</p> <p>16 warrant. Would you agree with that statement?</p> <p>17 A. That's -- that's one of the things that would</p> <p>18 depend on the circumstance. I know kind of what you are</p> <p>19 saying is that -- a person's life is priceless. It's not</p> <p>20 something that I could say just because I was serving</p> <p>21 them an arrest warrant, that that would be justified in</p> <p>22 taking somebody's life. That's not -- it would only be</p> <p>23 if I was protecting someone else or myself --</p> <p>24 Q. Okay.</p> <p>25 A. -- I can see it.</p> <p style="text-align: right;">48</p>
<p>1 their right to their own life is higher than the</p> <p>2 Government's right -- let me rephrase that. Scratch</p> <p>3 that.</p> <p>4 Do you believe that a person's interest in</p> <p>5 their life is greater than the Government's interest in</p> <p>6 serving an arrest warrant, for example?</p> <p>7 A. I don't understand your question completely.</p> <p>8 Q. Okay. Well, I'm sorry. Go ahead, finish what you</p> <p>9 are saying.</p> <p>10 A. Well, I was going to ask you if you were asking me</p> <p>11 if an arrest warrant is -- if a person's life is worth an</p> <p>12 arrest warrant?</p> <p>13 Q. Yes.</p> <p>14 A. No.</p> <p>15 Q. Okay.</p> <p>16 A. No.</p> <p>17 Q. Okay. Meaning, if you have to take somebody's</p> <p>18 life in order to give an arrest warrant, the better</p> <p>19 option, as opposed to taking somebody's life, would be</p> <p>20 just don't issue that person an arrest warrant?</p> <p>21 MR. CALVERT: Object to the form.</p> <p>22 A. It would depend on the circumstance.</p> <p>23 Q. (BY MR. TURNER) And I agree with that. Let's</p> <p>24 say -- let's say if that person was not a threat to</p> <p>25 themselves or not an imminent threat to themselves or the</p> <p style="text-align: right;">47</p>	<p>1 Q. The serving of an arrest warrant by itself does</p> <p>2 not justify the taking of somebody's life --</p> <p>3 A. No.</p> <p>4 Q. -- can we agree to that?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. Because, you know, you could come back and</p> <p>7 serve that arrest warrant another day, is that true?</p> <p>8 A. Depending on the circumstance.</p> <p>9 Q. Depending on the circumstances?</p> <p>10 A. It would -- it would really depend on the</p> <p>11 circumstance here.</p> <p>12 Q. Well -- but we can say that once that person is</p> <p>13 alive -- is no longer alive, there is nothing you can do</p> <p>14 to -- to bring that person back?</p> <p>15 A. Well, yeah.</p> <p>16 Q. All right. And, so -- so, I guess I'm just making</p> <p>17 a comparison. You know, there is potential to be able to</p> <p>18 serve that arrest warrant at another time, is that true?</p> <p>19 A. It would depend on the circumstance.</p> <p>20 Q. Right. But once that person is dead, that person</p> <p>21 is never -- you are never going to be able to bring that</p> <p>22 person back.</p> <p>23 A. Right.</p> <p>24 Q. Right. And, specifically, isn't that -- wouldn't</p> <p>25 you agree with me also that there's an interest -- that</p> <p style="text-align: right;">49</p>

1 the public also has an interest in bringing in suspects  
2 alive as opposed to dead?  
3 **A. I don't understand your question. Are you asking**  
4 **me that people would rather -- that people come in alive**  
5 **than dead? Is that what you are asking me?**  
6 Q. Well, you agree with me that the justice system is  
7 based on having people, you know, face the Court system  
8 and have a determination of guilt or innocence?  
9 **A. Yes.**  
10 Q. Okay. So, they can't have that determination of  
11 guilt of innocence if that person, you know, is no longer  
12 alive?  
13 **A. Yes.**  
14 Q. And that's -- personally, that's your goal or it  
15 should be your goal when you go to arrest somebody, serve  
16 an arrest warrant, to bring that person in alive and  
17 unharmed?  
18 **A. Yes.**  
19 Q. If possible?  
20 **A. Well, all the time. I want to make sure they come**  
21 **in alive all the time, if I can help it.**  
22 Q. You said earlier that you went through some  
23 self-defense training.  
24 **A. Yes.**  
25 Q. As part of the self-defense training, did you

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1 learn about headlocks and choke holds?  
2 **A. Are you asking me if we learned those**  
3 **techniques --**  
4 Q. Those techniques.  
5 **A. -- or if we learned about them?**  
6 Q. Both, really. Did you learn those techniques?  
7 Did you learn about them?  
8 **A. We learned about -- about choke holds and head**  
9 **restraints and different types of restraints, we learned**  
10 **that you are not to use choke holds. We don't -- that's**  
11 **not something that we use. We were showed techniques,**  
12 **ways to restrain people without causing serious bodily**  
13 **injury.**  
14 Q. Okay. Well, let's talk about choke holds. Why  
15 were y'all taught not to use choke holds?  
16 **A. Your --**  
17 Q. What is your understanding of why -- why it's not  
18 a good idea to use a choke hold?  
19 **A. You are cutting off someone's breath. I mean,**  
20 **it's going to cause them some injury, if not death.**  
21 Q. So -- so, does that apply, generally, any  
22 maneuverers that are cutting off a person's ability to  
23 breathe, they are generally not supposed to be used by  
24 you-all?  
25 **A. Yes.**

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1 Q. Is that something that you learned in training or  
2 is that something that you were told by -- when you got  
3 to Kirbyville?  
4 **A. That's something we learned in training.**  
5 Q. Okay. Okay. So, tell me about choke holds.  
6 Okay? How -- okay. I wish I had something, that way you  
7 could show me.  
8 But could you just generally tell me, like,  
9 how does it work? How does a choke hold work? What's  
10 the technique involved in a choke hold?  
11 **A. Well, we don't use them. I don't -- as far as I**  
12 **know, it would be cutting off their airway.**  
13 Q. Okay. What about a headlock?  
14 Are you guys allowed to use headlocks?  
15 **A. Well, it's -- it's a way of controlling somebody**  
16 **without cutting off their airway. Minimal force, that**  
17 **you just -- it's placed where you are holding onto**  
18 **somebody.**  
19 Q. Okay. So, could you describe for me the technique  
20 involved in doing a headlock? I guess, what position --  
21 okay.  
22 If you are applying a headlock, are you  
23 behind the person, are you in front of the person?  
24 **A. Well, it would depend on the circumstance.**  
25 Q. Okay.

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1 **A. If used properly, it could be used about any**  
2 **position.**  
3 Q. Okay.  
4 **A. It's just a hold. It's just holding onto**  
5 **somebody. It would be just like if you were holding**  
6 **around somebody's waist or a leg or a arm or anything**  
7 **else. You are not applying a whole lot of pressure, you**  
8 **are just holding onto them.**  
9 Q. Okay. And the hold is being applied around what  
10 part of the person's body, the headlock?  
11 **A. Well, just like it says, their head.**  
12 Q. Okay. Around their head. Around the top of their  
13 head or...  
14 **A. Just depends on where you can grab them at.**  
15 Q. Okay.  
16 **A. It's not meant to hurt them, it's meant to**  
17 **restrain them.**  
18 Q. And I understand that and I'm just trying to get  
19 an idea --  
20 **A. Right.**  
21 Q. -- of what a headlock actually is.  
22 Is there any -- such thing as a standard  
23 headlock?  
24 **A. Not that I know of.**  
25 Q. Okay. Okay. So, a headlock, from what I

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<p>1 understand, is just meant to hold that person's head in</p> <p>2 one single position? Is that the purpose or the goal of</p> <p>3 it?</p> <p>4 <b>A. Yes, more or less. Yes. It would depend on the</b></p> <p>5 <b>way that that person is moving around, whether you are</b></p> <p>6 <b>going to be able to hold them in one spot or not.</b></p> <p>7 Q. Is the difference between -- can you have a</p> <p>8 headlock where a person -- a person's arm is around the</p> <p>9 person's neck?</p> <p>10 <b>A. I'm sure it's possible.</b></p> <p>11 Q. Right. As long as you are not -- I guess the</p> <p>12 difference is, is that whether or not you were squeezing</p> <p>13 tight or whether or not it was looser?</p> <p>14 <b>A. Right. Applying force, yes.</b></p> <p>15 Q. Okay. Now, I'm going to get ahead of</p> <p>16 myself right now and we are going to talk about when this</p> <p>17 incident actually occurred. I saw from some of the</p> <p>18 statements that Chief Brister was applying, what he</p> <p>19 claims, to be a headlock on Mr. Jones. Is that fair?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Do you recall that?</p> <p>22 <b>A. Yeah, I do recall it. Yeah.</b></p> <p>23 Q. Okay. Did you actually see the headlock, as he</p> <p>24 claims, being applied to Mr. Jones?</p> <p>25 <b>A. Yes.</b></p> <p style="text-align: right;">54</p>	<p>1 neck? Were you able to tell that?</p> <p>2 <b>A. No, sir.</b></p> <p>3 Q. Okay. Now, in a headlock, is it -- are you</p> <p>4 supposed to grab -- grab your -- your other wrist when</p> <p>5 it's around or -- does it matter or (indicating)...</p> <p>6 <b>A. I don't -- I don't really know.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. It's not something that I trained on, was</b></p> <p>9 <b>giving -- putting a headlock on somebody.</b></p> <p>10 Q. Okay.</p> <p>11 <b>A. It would depend on the circumstance, I would</b></p> <p>12 <b>guess, how big the person was, how small they were, where</b></p> <p>13 <b>you were at at the time.</b></p> <p>14 Q. And because -- and is it your understanding that</p> <p>15 Kirbyville -- it was against Kirbyville's customs and</p> <p>16 policies to use a choke hold?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Okay. And because of that, they never showed you</p> <p>19 how to put -- put somebody in a choke hold?</p> <p>20 <b>A. From as far back as I can remember during</b></p> <p>21 <b>training, we were told not to use a choke hold, not just</b></p> <p>22 <b>Kirbyville.</b></p> <p>23 Q. And, so, I guess the answer to my question is,</p> <p>24 yes, they never showed you how to use a choke hold --</p> <p>25 <b>A. No.</b></p> <p style="text-align: right;">56</p>
<p>1 Q. Okay. Could you describe that particular</p> <p>2 headlock?</p> <p>3 <b>A. There was so much movement, I couldn't be able to</b></p> <p>4 <b>tell you exactly where he was located. I know that</b></p> <p>5 <b>Mr. Jones was screaming and hollering and breathing</b></p> <p>6 <b>while he was -- while he was holding him. So, I know he</b></p> <p>7 <b>wasn't choking him because he was -- he was speaking.</b></p> <p>8 Q. Okay.</p> <p>9 <b>A. But there was so much -- he was moving around so</b></p> <p>10 <b>much it would be hard to say -- for me to be able to say</b></p> <p>11 <b>where he actually had it.</b></p> <p>12 Q. Okay. And you say that's pretty much the entire</p> <p>13 time when the headlock was being applied he was moving</p> <p>14 around and screaming?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Okay. When he stopped moving around and</p> <p>17 screaming, did that happen, like, almost all at once?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And what I mean by that is, he was moving around,</p> <p>20 you know, like you said, breathing, screaming, or</p> <p>21 whatever, and then -- one second and almost the next</p> <p>22 second it just kind of stopped?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Okay. And, so, are you able to tell where exactly</p> <p>25 Chief Brister's forearm and bicep was? Was it around his</p> <p style="text-align: right;">55</p>	<p>1 Q. Okay. Okay. I want to make sure I got this -- I</p> <p>2 think you said -- I want to make sure I got that clear.</p> <p>3 The main -- really, the main difference between a choke</p> <p>4 hold and a headlock is that a choke hold cuts off air and</p> <p>5 circulation?</p> <p>6 <b>A. As far as I know, yes.</b></p> <p>7 Q. Okay. Okay. As far as you know, have you ever</p> <p>8 had any complaints filed against you while you've been</p> <p>9 with Kirbyville?</p> <p>10 <b>A. No, sir.</b></p> <p>11 Q. As far as you know has Chief Brister ever had any</p> <p>12 complaints filed against him while he's been at</p> <p>13 Kirbyville?</p> <p>14 <b>A. No, sir.</b></p> <p>15 Q. Have you ever, in your history of -- in your</p> <p>16 police career, have you ever had to use deadly force?</p> <p>17 <b>A. No, sir.</b></p> <p>18 Q. Have you ever -- and, obviously, this time is</p> <p>19 included. Have you ever, in the process of detaining or</p> <p>20 arresting somebody, cause that person's death?</p> <p>21 <b>A. No, sir.</b></p> <p>22 Q. Do you know if Chief Brister has ever, in the</p> <p>23 process of arresting or detaining somebody, caused their</p> <p>24 death?</p> <p>25 <b>A. As far as I know, no.</b></p> <p style="text-align: right;">57</p>



<p>1 Q. Okay. Okay. Okay. I want to just talk about 2 your time at Kirbyville now. I'm going to ask you this 3 question, if you can answer, answer. If you can't, you 4 can't. I understand.</p> <p>5 But could you give me an estimate of how many 6 times you've had -- you have had to use force in order to 7 effectuate an arrest during your time at Kirbyville?</p> <p>8 <b>A. I couldn't tell you. I don't know.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. It wouldn't be a very high number.</b></p> <p>11 Q. Have you ever?</p> <p>12 <b>A. Had to use force?</b></p> <p>13 Q. In order to -- in order to, yeah, make an arrest?</p> <p>14 <b>A. Well, yes. Yes.</b></p> <p>15 Q. Okay. Okay. Do you know about how many arrests 16 you made during your time at Kirbyville?</p> <p>17 <b>A. I couldn't tell you.</b></p> <p>18 Q. Okay. Could you give me a percentage? You say -- 19 you know, maybe 10 percent of the arrests you have made 20 or, you know...</p> <p>21 <b>A. Not accurately I wouldn't be able to give you a 22 percentage.</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. Majority of the time, no, I don't have to use 25 force.</b></p> <p style="text-align: right;">58</p>	<p>1 Q. Okay. How would you document -- let me pause. 2 Are we just talking about Tasers right now or 3 are we talking about all use of force?</p> <p>4 <b>A. No, all uses of force.</b></p> <p>5 Q. Okay. How would you document it?</p> <p>6 <b>A. In our incident reports.</b></p> <p>7 Q. Okay. Prior to this incident, when was the last 8 time you had to use force in order to effect an arrest?</p> <p>9 <b>A. I can't -- I can't remember.</b></p> <p>10 Q. Okay. Would that inci- -- information would be in 11 your incident report forms?</p> <p>12 <b>A. Yes, sir, it should.</b></p> <p>13 Q. Okay. Got this. Got this. That's good. 14 Did you ever know Mr. Jones before this 15 specific incident?</p> <p>16 <b>A. No, sir.</b></p> <p>17 Q. Had you ever met him before?</p> <p>18 <b>A. No, sir.</b></p> <p>19 Q. Do you know if Chief Brister had known him?</p> <p>20 <b>A. No, sir, not that I know of.</b></p> <p>21 Q. Did you know anybody at the scene before this 22 incident had took place?</p> <p>23 <b>A. Yes, sir.</b></p> <p>24 Q. Who did you know?</p> <p>25 <b>A. The guy that was there that had the camper</b></p> <p style="text-align: right;">60</p>
<p>1 Q. Okay. Would you say it was less than 10 percent 2 of the time?</p> <p>3 <b>A. I would hate to tell you that and it be wrong.</b></p> <p>4 Q. Okay. It's my understanding that if you have to 5 use -- let's see. Let me -- let me look here.</p> <p>6 That -- that if you have to use nondeadly 7 force with Kirbyville, that you have to fill out a 8 use-of-force report form. Have you ever had to fill one 9 of those out before?</p> <p>10 <b>A. A use-of-force form?</b></p> <p>11 Q. Report form.</p> <p>12 <b>A. It depends on what use of force it is.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. We have -- we have use-of-force forms for our 15 Tasers.</b></p> <p>16 Q. Okay.</p> <p>17 <b>A. And we have -- the guys have to fill them out. I 18 can't recall that I have ever had to fill one out 19 because -- I think this is one of the few times I've 20 actually reported it and I didn't have contact.</b></p> <p>21 Q. And is it your understanding that the use-of-force 22 report form is only for Tasers?</p> <p>23 <b>A. Depending on the use of the force. There would 24 be -- we would document it. I don't believe we have an 25 actual form for it.</b></p> <p style="text-align: right;">59</p>	<p>1 trailer. We call him "BB," but his name is Arthur Breed. 2 I've known him for a few years.</p> <p>3 Q. Okay. How did you know Arthur Breed?</p> <p>4 <b>A. Well, Arthur has been in and out of jail. He -- 5 he stayed in trouble. We try to keep him out of trouble. 6 We try to make sure he doesn't commit any crimes and try 7 and help him out.</b></p> <p>8 Q. Okay. What type of crimes did Arthur Breed have a 9 tendency to commit?</p> <p>10 <b>A. Arthur is a thief. He likes to steal stuff.</b></p> <p>11 Q. Okay. How long had you known Arthur Breed prior 12 to?</p> <p>13 <b>A. A couple of years.</b></p> <p>14 Q. Had you met her -- had you known Shawntel Breed 15 prior to this?</p> <p>16 <b>A. Not that I know of. I don't remember.</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. I may have met her before. I talk to so many 19 people. It's hard for me to keep up with everybody.</b></p> <p>20 Q. The location where you guys went to make the 21 arrest, you had been to that location before?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Several times or a few times?</p> <p>24 <b>A. Are you asking just going there or actually for 25 incidents or for offenses?</b></p> <p style="text-align: right;">61</p>

1 Q. Well, just in general.  
2 A. **Just in general, yes, several times.**  
3 Q. Okay. Okay. You are familiar with -- with the  
4 area where this whole incident occurred?  
5 A. **At Chestnut and MLK? Yes, sir.**  
6 Q. Yeah. Very familiar?  
7 A. **Yes, sir. I drive through there every day.**  
8 Q. And just so we have an idea, how many people are  
9 in Kirbyville?  
10 A. **I think the last census count was 2181.**  
11 Q. 2,181, approximately?  
12 A. **I think that was the last count that I had from**  
13 **the census.**  
14 Q. How many people do y'all have at the  
15 Kirbyville Police Department?  
16 A. **Now?**  
17 Q. At the time.  
18 A. **At the time. Myself, the Chief, and two officers.**  
19 **So, four.**  
20 Q. Were you the only patrol sergeant at that time?  
21 A. **Was I the only?**  
22 Q. Were you the only patrol sergeant --  
23 A. **Yes.**  
24 Q. -- in Kirbyville at the time?  
25 A. **Yes, sir. We only have one.**

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1 Q. Now, I asked you about complaints that you knew of  
2 for Chief Brister and for yourself. What about these  
3 other two officers? Do you know of any complaints lodged  
4 against them prior to this incident?  
5 A. **I would have to actually go back and see which two**  
6 **officers it was.**  
7 Q. Okay. Do you have an idea of either one of the  
8 two?  
9 A. **I don't. I don't. We had a few officers come**  
10 **through during that time.**  
11 Q. Okay. Okay. I think we are ready now. Okay.  
12 Let's -- let's talk about the day of this incident.  
13 Okay?  
14 A. **Okay.**  
15 Q. All right. Tell me how you were -- you first  
16 became aware of -- of Dustin Jones. You said -- you said  
17 you had never known Dustin Jones --  
18 A. **Right.**  
19 Q. -- before this occasion. Okay. So --  
20 A. **First time I heard his name, we received a call**  
21 **from the Jasper dispatch that -- from what I can**  
22 **understand, I was told was that they had received a call**  
23 **from Jefferson County about the location of a wanted**  
24 **suspect. They called me, told me what his name was, and**  
25 **told me the location where he was at, told me that he had**

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1 some felony warrants and that Jefferson County had  
2 confirmed the warrants and they wanted us to pick him up.  
3 Q. Okay. Thanks.  
4 How often do you get calls like this, you  
5 know, to ask you to pick up somebody from, I guess,  
6 another district that you are aware of -- that they are  
7 aware of being in your jurisdiction?  
8 A. **How many calls a month? Are we talking about a**  
9 **year?**  
10 Q. You can tell me a month.  
11 A. **In a month we may get one or two.**  
12 Q. Okay. And the call from Jasper dispatch, they  
13 gave you the location?  
14 A. **Yes, sir.**  
15 Q. And the name?  
16 A. **Yes, sir.**  
17 Q. Did he tell you what the warrants were for?  
18 A. **Yes, sir.**  
19 Q. What were the warrants for?  
20 A. **I don't recall exactly what they were. I was told**  
21 **that it was three felony warrants. I believe they were**  
22 **some aggravated charges, but I don't remember exactly**  
23 **which ones they were. Just from memory, I want to say**  
24 **one of them was an aggravated sexual assault and then one**  
25 **aggravated assault, but I don't remember exactly what the**

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1 **third one was.**  
2 Q. Okay. Do you know if these three felony warrants  
3 were for probation violations?  
4 A. **No, sir, I don't.**  
5 Q. Okay.  
6 A. **I don't recall.**  
7 Q. Okay. Okay. So, after you got the -- well, let's  
8 just talk about this. When you get a call like this,  
9 they give you the location, the name, and the -- you  
10 know, the warrants.  
11 Generally speaking -- not necessarily on this  
12 specific occasion, but generally speaking, what's the  
13 next thing that you would do?  
14 A. **Depending on the circumstance. With -- with this,**  
15 **they also told us that he was possibly armed and that he**  
16 **was standing in the front yard. I knew the location, I**  
17 **knew the residence. So, I called the Chief to go with**  
18 **me --**  
19 Q. Okay.  
20 A. **-- just -- just in case.**  
21 Q. Okay. Is that something that you would normally  
22 do?  
23 A. **Yes.**  
24 Q. If -- if the suspect was armed?  
25 A. **Yes.**

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1 Q. Okay. Does Kirbyville have any type of policy  
2 about how many officers needs to go to serve these type  
3 of warrants?  
4 **A. Not that I'm aware of.**  
5 Q. Okay. First of all, generally speaking, when you  
6 get a call like this and they tell you that they have,  
7 you know, aggravated assault, you know, some felony  
8 warrants, do you -- do you inquire into, you know, the  
9 situations involved in each one or do you just -- I guess  
10 that's my question.  
11 Do you inquire into the situation?  
12 **A. Of what the warrants are based on?**  
13 Q. Uh-huh.  
14 **A. No. No, sir, not usually.**  
15 Q. In this case, did you? Did you ask, you know,  
16 what was this sexual assault about or --  
17 **A. No, sir. I knew our dispatch wouldn't know**  
18 **because it was from Jefferson County.**  
19 Q. Okay. Okay. Did you ever contact with -- anybody  
20 from Jefferson County to see, you know, the -- I guess  
21 the story behind each of those warrants?  
22 **A. No, sir.**  
23 Q. Okay. These were, am I right to call, arrest  
24 warrants?  
25 **A. Yes, sir.**

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1 Q. Okay. Arrest warrants are just based on probable  
2 cause to arrest somebody; is that correct?  
3 **A. Yes, sir.**  
4 Q. Okay. It's not -- arrest warrants don't mean that  
5 a person is actually guilty of whatever the crime that  
6 warrant is out for, is that true?  
7 **A. Yeah. It does not mean they are guilty of the**  
8 **crime, just arrest warrant.**  
9 Q. Okay. So, you said on this occasion you decided  
10 to call Chief Brister. Why did you decide to call  
11 Chief Brister?  
12 **A. Normally on felony warrants, we don't go alone.**  
13 Q. Okay.  
14 **A. We normally at least have one officer -- one other**  
15 **officer with us.**  
16 Q. Okay. Okay. Do you recall about what time you  
17 received the phone call?  
18 **A. No, sir, I don't.**  
19 Q. Okay. Okay. So, what was the next thing you did  
20 after -- after you informed Chief Brister about the --  
21 the felony warrants?  
22 **A. We went to the residence.**  
23 Q. Okay. Did you have any information about who  
24 called in to let them know that he was at that specific  
25 residence?

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1 **A. No, sir.**  
2 Q. Is it your understanding that this was a tip from  
3 somebody?  
4 **A. That was our understanding later that it was a**  
5 **Crime Stoppers tip.**  
6 Q. Okay. Okay. How far is the residence from the  
7 police office driving, driving time?  
8 **A. Driving time? No more than five minutes, I would**  
9 **think.**  
10 Q. Okay. When you guys -- did y'all drive in the  
11 same vehicle or did y'all take separate vehicles?  
12 **A. Separate vehicles.**  
13 Q. Okay. Were you the lead vehicle or was  
14 Chief Brister the lead vehicle?  
15 **A. I was the lead vehicle.**  
16 Q. Okay. What type of vehicle were you driving?  
17 **A. A Ford Explorer.**  
18 Q. Okay. And what type of vehicle was Chief Brister  
19 driving?  
20 **A. A Crown Vic.**  
21 Q. Okay. As you arrived to the scene, what did you  
22 see?  
23 **A. As far as I can remember Arthur Breed being in the**  
24 **yard.**  
25 Q. Did you see anybody else in the yard?

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1 **A. No, sir.**  
2 Q. Okay. So, next y'all pull up to the residence, I  
3 assume?  
4 **A. Yes, sir.**  
5 Q. Okay. Y'all get out?  
6 **A. Yes, sir.**  
7 Q. And what's the next thing y'all did after that?  
8 Do you and -- I'm sorry. Not to cut you off, I'm sorry.  
9 Did you and Chief Brister, did y'all have any  
10 conversation before y'all went up to the residence?  
11 **A. Between me and the Chief?**  
12 Q. Uh-huh.  
13 **A. No, sir.**  
14 Q. Okay. I assume that y'all had a conversation  
15 before y'all drove -- left -- left the office to drive to  
16 the scene?  
17 **A. Yes, sir.**  
18 Q. Tell me about that conversation.  
19 **A. I told him what we had, that we had a -- a tip**  
20 **from the Sheriff's Office that this man was at this**  
21 **location and that he had felony warrants and they would**  
22 **like for us to pick him up.**  
23 Q. Okay. All right. Did he say anything to you?  
24 **A. No, sir.**  
25 Q. Okay. Okay. All right. All right. So, tell me

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1 what happened after you walked up to the residence.  
2 **A. I talked to Arthur Breed for a minute and I asked**  
3 **him if there was anybody else in the -- in the residence.**  
4 **And I believe he told me that his daughter was in there**  
5 **and her husband.**  
6 **I asked who it was. I don't remember if he**  
7 **told me her husband's name or not. But I do remember the**  
8 **door being open and I -- I called into the trailer. I**  
9 **asked for Dustin, that was the name I called.**  
10 **And he said, Yeah.**  
11 **And he come outside and we verified that he**  
12 **was Dustin Jones.**  
13 Q. Okay. Let me take this a little bit..  
14 **A. Okay.**  
15 Q. Okay. So, you went up and talked to Arthur Breed  
16 outside?  
17 **A. Uh-huh.**  
18 Q. You asked him was there anybody else in the  
19 residence?  
20 **A. Correct.**  
21 Q. Okay. And he told you that his daughter was and  
22 her husband?  
23 **A. Yeah. As far as I remember, that's the way the**  
24 **conversation went, yes, sir.**  
25 Q. Okay. Or son-in-law, something like that?

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1 **A. Something like that, yes, sir.**  
2 Q. He indicated that there was somebody else besides  
3 his daughter in the residence?  
4 **A. Yes, sir.**  
5 Q. Did you ask anything else of Arthur Breed before  
6 you called into the residence?  
7 **A. Not that I recall.**  
8 Q. Okay. But the next thing you did, you called and  
9 asked for Dustin?  
10 **A. Yes.**  
11 Q. And Dustin answered?  
12 **A. Yes.**  
13 Q. Okay. What was the next thing you did?  
14 **A. We asked him to step outside.**  
15 Q. Did he comply?  
16 **A. He did.**  
17 Q. Okay. When you saw Dustin -- can you tell me when  
18 you first saw him, what did he look at, what was his  
19 appearance?  
20 I guess, what did he -- did he have a shirt  
21 on?  
22 **A. Yeah. He had a shirt on, pants on.**  
23 Q. Okay. Was it a T-shirt, do you recall, or..  
24 **A. I don't remember exactly.**  
25 Q. Do you know if it was jeans or pants?

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1 **A. Well, I call that the same thing.**  
2 Q. I guess -- do you know if -- I guess that's a fair  
3 answer.  
4 Do you know if it was jeans or I guess, like,  
5 cotton pants or --  
6 **A. Oh, I don't recall that.**  
7 Q. Okay.  
8 **A. No, sir.**  
9 Q. Okay. Okay. As a police officer, y'all are  
10 taught in training how to, you know, basically, assess a  
11 person's dimensions based on looking at them, I assume?  
12 **A. To a point.**  
13 Q. To a point.  
14 Could you just give me -- you know, how tall  
15 did he look to you when you -- when you first saw him?  
16 **A. About my height.**  
17 Q. Okay. And what would you say his weight was, if  
18 you had to guess?  
19 **A. Over 200.**  
20 Q. Would you say he's closer -- would you say he's  
21 closer to 200 or closer to 300?  
22 **A. 200.**  
23 Q. So, just a little bit over 200?  
24 **A. I don't know exactly how much. I just --**  
25 **guesstimate, he would be over 200 pounds.**

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1 Q. Okay. Okay. So, he complies with you guys.  
2 Ordered to come out.  
3 What's the next thing that happened?  
4 **A. We advised him of his warrants, asked him to place**  
5 **his hands on the side of the trailer.**  
6 Q. Okay. You asked him to place his hands on the  
7 side of the trailer and then advised him of his warrants  
8 or..  
9 **A. I believe we advised him before.**  
10 Q. Okay. You advised him of his warrants.  
11 When you asked him to place his hands on the  
12 trailer, did he do so?  
13 **A. Yes, sir.**  
14 Q. Okay. Okay. What's the next thing that you did?  
15 **A. I started a pat search.**  
16 Q. Okay.  
17 **A. And he advised me that he had a knife in his**  
18 **pocket.**  
19 Q. Okay. Okay. Did you find the knife when you did  
20 the pat search?  
21 **A. No, sir, not that I can recall, that I ever found**  
22 **a knife on him.**  
23 Q. Okay. Did you complete your pat search?  
24 **A. As much as possible, yes, sir.**  
25 Q. Okay. And the point of the pat search is to make

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1 sure that they don't have any deadly weapons on them?  
2 **A. Yes, sir.**  
3 Q. Okay. And you didn't find any?  
4 **A. Not on the pat search, no, sir.**  
5 Q. Okay. All right. Okay. So, what's the next  
6 thing that happened after you finished your pat search?  
7 **A. I pulled my handcuffs out to -- to handcuff him.**  
8 **I reached to grab one of his arms -- I don't remember**  
9 **whether it was right or left -- to place him in**  
10 **restraints. Whenever I did, he turned and struck me in**  
11 **the chest, knocking me into Chief Brister.**  
12 Q. Okay. Okay. So, after your pat search was  
13 completed, you pulled out your handcuffs and reached for  
14 one arm to began handcuffing him?  
15 **A. Yes, sir.**  
16 Q. Okay. He was facing away from you at that time?  
17 **A. Yes, sir.**  
18 Q. Okay. But once you did that -- was there any  
19 conversation between you-all during that time period, I  
20 guess?  
21 **A. No, sir.**  
22 Q. Okay. You said he turned and he struck you in  
23 your chest?  
24 **A. Yes, sir.**  
25 Q. When you say he "struck" you, did he punch you,

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1 did he elbow you, push you? Do you know?  
2 **A. It happened so quick. I don't know. I don't know**  
3 **how he struck me.**  
4 Q. Okay. And Chief Brister was directly behind you?  
5 **A. Yes, sir.**  
6 Q. Okay. And he pushed you into Chief Brister?  
7 **A. Yes, sir.**  
8 Q. Okay. Okay. What happened next?  
9 **A. He took off running towards MLK.**  
10 Q. Was he fast?  
11 **A. He was pretty quick.**  
12 Q. And what did you do in response?  
13 **A. I began foot pursuit of him.**  
14 Q. Okay. When you began that foot pursuit, did you  
15 still have your handcuffs?  
16 **A. No, I did not.**  
17 Q. Okay. So, when he, as you claim, struck you, you  
18 dropped your handcuffs, or do you know when?  
19 **A. I don't know when.**  
20 Q. Okay. But at some point between when the foot  
21 pursuit started and when he -- I guess when you got  
22 there, you lost your handcuffs?  
23 **A. Yes, sir.**  
24 Q. Okay. Well, at some point -- let me say this: At  
25 some point between when you tried to handcuff him and

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1 when the foot pursuit began, you lost your handcuffs?  
2 **A. I don't know exactly when.**  
3 Q. Okay.  
4 **A. Some time between the time the foot pursuit began**  
5 **and whenever I caught him was whenever I lost the**  
6 **handcuffs.**  
7 Q. Okay. Okay. You said you began your foot  
8 pursuit. Did you eventually catch Mr. Jones?  
9 **A. Yes, sir.**  
10 Q. Okay. Can you give me your best estimate of how  
11 far it was before you actually caught him?  
12 **A. Best estimate is a couple of hundred of yards.**  
13 Q. So, would you say more or less than the length of  
14 a football field?  
15 **A. It would be more, a couple of hundred.**  
16 Q. So, maybe about two football fields long?  
17 **A. Possibly.**  
18 Q. Okay. Are you aware of what Chief Brister was  
19 doing at the time when the foot pursuit began?  
20 **A. No, sir. We was quite a bit faster than he was.**  
21 Q. Okay. Okay. Okay. And about where was the  
22 location that you were at, as best as you can describe  
23 it, when you actually caught up to -- to Mr. Jones?  
24 **A. From where we began?**  
25 Q. Well, I guess, you know, y'all began at

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1 Arthur Breed's house?  
2 **A. Correct.**  
3 Q. And at the location when you kind of finally  
4 caught up to him, you know, could you tell me about where  
5 that location was, as best you can describe it?  
6 **A. Well, it was a block away. It was down off of --**  
7 **we call it Henry Robinson, but it's actually Avenue A.**  
8 **It's -- there's a church there.**  
9 Q. Okay.  
10 **A. It was on the -- it was on the west side of the**  
11 **church in between -- there's an old -- an old building**  
12 **that was there -- it's on the property of the church --**  
13 **we were in between the two buildings.**  
14 Q. Okay.  
15 **A. I say "in between." It was more out away from it,**  
16 **but, you know, in that general area between.**  
17 Q. I see. Okay.  
18 Now, what happened once you caught up with  
19 Mr. Jones?  
20 **A. I caught up to him. I was able to grab him from**  
21 **behind. I was on his back. I realized I had no**  
22 **handcuffs, realized I didn't have my Taser. Just holding**  
23 **onto him was a fight in itself. I grabbed my radio. I**  
24 **keyed up my radio to call for assistance. I don't**  
25 **remember exactly what got out. I know there is a**

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1 recording of what I said for it.  
2 And about the time that I got what I was  
3 saying, he stripped the radio out of my hand and threwed  
4 it across the yard. In the struggle, I ended up on my  
5 back on the ground with him on top of me.  
6 Q. Okay. You said you were able to grab him from  
7 behind while he was running?  
8 A. Uh-huh.  
9 Q. Do you recall what part of his body you grabbed?  
10 A. I was around his back and I -- I was, more or  
11 less, holding onto him, almost like I was riding his back  
12 because he was trying to run with me on him.  
13 Q. Okay. And, eventually, you were able to get him  
14 to the ground?  
15 A. Both of us went to the ground.  
16 Q. Right.  
17 A. Me on my back and him on top.  
18 Q. Okay. Okay. So, when you were able to -- when  
19 you tried to grab the radio and call for assistance, were  
20 you still standing up or were you still holding onto him,  
21 I guess?  
22 A. I was -- I was holding onto him.  
23 Q. Okay. So, you were on two feet at that point  
24 still?  
25 A. Yes.

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1 Q. Okay. Two feet kind of behind him, if I  
2 understand?  
3 A. We were leaning forward going to the ground and --  
4 if you can imagine him knelt down with me behind him with  
5 one arm wrapped around his body trying to hold onto him  
6 so he can't run, grabbed my radio, and -- and -- I didn't  
7 really have a good hold of him because I was trying to  
8 get ahold of my radio, too, at the same time.  
9 Q. Okay. You say you don't recall how much -- you  
10 don't know how much of what your call got out?  
11 A. I don't remember exactly what all was said.  
12 Q. All right. But at some point you said he -- he  
13 was able to get the radio and strip it from you and throw  
14 it?  
15 A. Yes, sir.  
16 Q. Okay. When he was able to strip it -- could you  
17 tell me what position y'all were in when he was able to  
18 get that radio from you?  
19 A. I cannot recall. I was trying to talk and trying  
20 to look at the radio at the same time, making sure I was  
21 on the right frequency and holding onto him. It was a  
22 lot to do at one time. And I don't remember -- I don't  
23 even remember how I got on my back. It all happened so  
24 fast.  
25 Q. Okay. That was going to be my next question.

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1 But somehow throughout the struggle you lost  
2 your radio and you were on your back?  
3 A. Yes, sir.  
4 Q. Okay. Do you know about how much time had passed  
5 between the -- when the foot -- when the foot chase  
6 started to when you were on your -- on your back on the  
7 ground?  
8 A. No, sir.  
9 Q. Okay. Once you were on your back on the ground,  
10 what was happening, what happened next?  
11 A. I was still trying to effect an arrest. I wrapped  
12 my -- my legs around his legs and was holding on. At  
13 that time, he started beating on my chest, which was  
14 knocking the wind out of me. It had gotten to the point  
15 where I was unable to breathe.  
16 Q. Okay. Okay. So, at this point you were still  
17 trying to -- you were still trying to effect the arrest?  
18 A. Yes, sir.  
19 Q. Okay. You said you had your legs wrapped around  
20 him?  
21 A. Around his legs, yes, sir.  
22 Q. To keep him from -- from -- from moving try to  
23 leave again; right?  
24 A. Yes, sir.  
25 Q. You said he was beating on your chest.

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1 A. Yes, sir.  
2 Q. Okay. How was he doing that? Was he just  
3 punching your chest or...  
4 A. That's another thing that I don't -- I don't  
5 recall completely. I don't know if he was actually  
6 beating on me or if he was trying to get off of me or  
7 what he was trying to do, but he was hitting me in the  
8 chest and it wasn't very comfortable.  
9 Q. Okay. Okay. Do you recall how long this was  
10 going on as far as him beating on your chest and trying  
11 to get off, or whatever it was --  
12 A. No, sir.  
13 Q. -- do you know how long this went on for?  
14 A. No, sir.  
15 Q. Okay. What happened next, to your memory? At  
16 this point, I think you said that you were starting to  
17 lose some breath?  
18 A. I was. I was to the point where I couldn't  
19 breathe very good. Paul, he found us. He pulled up in  
20 my patrol car and come running up. I was able to get out  
21 that I couldn't breathe. That was about what I could get  
22 out with all the oxygen that I had left and Paul run up  
23 and he -- I don't know if he knew what was going on, or  
24 what, but he -- he could see the guy on top of me and  
25 knew that I was in trouble and began striking him with a

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<p>1 flashlight.</p> <p>2 Q. Okay. At any point since you did the pat down,</p> <p>3 did you ever see that knife or did he ever pull the knife</p> <p>4 out?</p> <p>5 A. No, sir.</p> <p>6 Q. Okay. Now, there's something that I think I read</p> <p>7 it, but I don't think it's been mentioned yet. When you</p> <p>8 first started that chase, did you try to shoot him with</p> <p>9 your Taser?</p> <p>10 A. I did.</p> <p>11 Q. Okay. But you missed?</p> <p>12 A. Initially. Whenever I squeezed the trigger it</p> <p>13 failed, the Taser failed. I turned it off, turned it</p> <p>14 back on, and whenever I did, I fired in his direction.</p> <p>15 He tripped in the ditch, and whenever he did, the Taser</p> <p>16 leads went over him. That's where I think that I lost my</p> <p>17 Taser in that ditch because I fell, too.</p> <p>18 Q. Okay. Do you know whether or not -- let me ask</p> <p>19 you this question: Per Kirbyville's policy and customs,</p> <p>20 is it okay to use deadly force on a suspect that is</p> <p>21 fleeing?</p> <p>22 A. A fleeing suspect? Depends on the circumstance.</p> <p>23 Q. Okay. Under what circumstances would it be okay?</p> <p>24 A. Well, if he is fleeing and he is armed and he is a</p> <p>25 threat to other people, then yes.</p>	<p>1 Q. You were able to get out that you were having</p> <p>2 trouble breathing?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And -- I'm sorry. So, tell me what the next thing</p> <p>5 that happened again after that was.</p> <p>6 A. Chief Brister struck him with a flashlight.</p> <p>7 Q. Okay. Do you recall where Chief Brister struck</p> <p>8 him at?</p> <p>9 A. First time, my hand.</p> <p>10 Q. First time he hit your hand?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay. What about after that?</p> <p>13 A. I don't recall exactly where. Between the head</p> <p>14 and shoulders.</p> <p>15 Q. And what was Mr. Jones' reaction to being hit</p> <p>16 between the head and the shoulders with the flashlight?</p> <p>17 A. I didn't look like it phased him at all.</p> <p>18 Q. Do you recall how many times Chief Brister struck</p> <p>19 him?</p> <p>20 A. I do not.</p> <p>21 Q. More than once?</p> <p>22 A. Oh, sure. Yeah. He hit me the first time.</p> <p>23 Q. Was it your right hand or left hand, do you</p> <p>24 recall?</p> <p>25 A. (Indicating)</p>
<p>1 Q. Okay. Okay. And, so, then I would assume the</p> <p>2 reverse is true, if he is fleeing but he is unarmed and</p> <p>3 is not a threat to other people, then it's not okay to</p> <p>4 use deadly force. Is that a true statement?</p> <p>5 A. Well, it would depend, too. You are saying he's</p> <p>6 unarmed? Depending on how that he's acting as well. I</p> <p>7 mean, if he had fists and he could still hurt somebody,</p> <p>8 then it would depend. I don't think so, no. We normally</p> <p>9 wouldn't use deadly force on that situation.</p> <p>10 Q. Okay.</p> <p>11 A. I mean, it all depends on the circumstance,</p> <p>12 though, if he's a threat to somebody else.</p> <p>13 Q. Okay. And I guess that's my question. If he was</p> <p>14 unarmed and there had been no determination or, you know,</p> <p>15 evidence to show that he was a threat to himself or to</p> <p>16 other people, under Kirbyville's policy or customs, would</p> <p>17 it be okay to use deadly force against a suspect like</p> <p>18 that?</p> <p>19 A. No.</p> <p>20 Q. Okay. At any time prior to -- strike that. Okay.</p> <p>21 I'm sorry. I got to get back.</p> <p>22 A. That's fine.</p> <p>23 Q. You said that Chief Brister pulled up in your</p> <p>24 police car?</p> <p>25 A. Yes, sir.</p>	<p>1 Q. Left?</p> <p>2 A. (Nodding head up and down)</p> <p>3 Q. Is that a "yes"?</p> <p>4 A. Yes. I'm sorry. Yes.</p> <p>5 Q. Okay. Okay. So, what happened next after</p> <p>6 Chief Brister, I guess, finished hitting him with the</p> <p>7 flashlight?</p> <p>8 A. Well, seeing that it was -- it was not -- it</p> <p>9 wasn't working, he -- it wasn't phasing him at all, he</p> <p>10 was -- he got around his back and at one point, they were</p> <p>11 on top of me, both of them, and they rolled over and the</p> <p>12 Chief was actually able to roll him off of the top of me</p> <p>13 where I could -- I could breathe again.</p> <p>14 Q. Okay. Do you -- do you recall what technique, if</p> <p>15 any, the Chief used to roll him off of you?</p> <p>16 A. No, sir, I don't.</p> <p>17 Q. Okay. And after he rolled him off of you, at this</p> <p>18 point you were able to breathe?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. What's the next thing you recall happening?</p> <p>21 A. Whenever -- whenever they rolled off of me, I was</p> <p>22 able to get up. I could hear them still fighting to my</p> <p>23 right and Dustin was screaming some things and I --</p> <p>24 whenever I looked, Paul had his legs wrapped around him</p> <p>25 and had his arms wrapped around him and was holding him</p>

1 and he was -- I could tell that Paul was just about give  
2 out because he was losing control and he was -- he was at  
3 the point where he was about to get -- get free again.  
4 So, I laid over the top of Paul onto Dustin  
5 and grabbed both of his arms and was holding onto his  
6 arms to keep him from hitting or getting free from us.  
7 And we just laid there waiting on backup to get to us.  
8 Q. Okay. Okay. After Chief Brister rolled Dustin  
9 off of -- off of you, did you take a second to catch your  
10 breath?  
11 A. It took me a second.  
12 Q. And you said that you still kind of heard a  
13 struggle going on?  
14 A. Yes, sir.  
15 Q. It's not something you saw, it's something you  
16 heard?  
17 A. Initially, yes, sir.  
18 Q. Okay. And you said that you heard Dustin  
19 screaming something?  
20 A. Yes, sir.  
21 Q. Do you recall what he was screaming?  
22 A. No, sir.  
23 Q. Okay. Okay. And when you finally were able to  
24 look back over there, you said you saw Dustin was on top  
25 of Chief Brister?

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1 A. No, sir, not on top. They were laying on their  
2 side.  
3 Q. They were on their sides --  
4 A. Yes, sir.  
5 Q. -- when you first saw them?  
6 Okay. And Chief Brister had his legs wrapped  
7 around Dustin?  
8 A. Yes, sir.  
9 Q. Okay. And he had -- he was holding him somehow?  
10 A. Yes, sir.  
11 Q. Okay. Do you recall where his arm was at that  
12 point where he was holding him?  
13 A. No, sir.  
14 Q. Okay. Okay. And you said that it looked like to  
15 you that Dustin was still struggling?  
16 A. Yes, sir.  
17 Q. And, so, at that point you got on top of both of  
18 them?  
19 A. I was on my knees and I laid across Paul. Paul  
20 was in between me and Dustin. So, I was more laying on  
21 Paul than I was on Dustin. I reached over the top and  
22 was holding onto his arms to keep him from hitting or  
23 getting free. They were both laying on their right side  
24 and I was behind Paul laying over.  
25 Q. Okay. Okay. How did you grab his hands -- his

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1 arms?  
2 A. As best as I could there. There wasn't no  
3 technique in it. I was trying to hold on with my hands  
4 initially, but with sweat and everything and as strong as  
5 he was, I couldn't hold him with just my hands. I ended  
6 up having to wrap my arms around his -- his hands and  
7 arms to pull them to me.  
8 Q. Okay. So, when you wrapped your arms around his  
9 hands and legs, were -- were your arms wrapped around  
10 both Chief Brister and him or --  
11 MR. CALVERT: Object to the form.  
12 Go ahead.  
13 A. Not around his -- not around his legs, just his --  
14 just his hands and arms.  
15 Q. (BY MR. TURNER) Okay. While your -- while your  
16 arms -- your arms -- while you were wrapped around his  
17 hands and arms, were your arms wrapped around both he and  
18 Chief Brister or was it just -- just around him?  
19 In my mind, I am envisioning that you were  
20 just hugging him and his arms were kind -- that's not  
21 right?  
22 A. No, sir. Initially, whenever I had his arms, he  
23 had them out. He was trying to get free. Well, I was  
24 able to grab ahold of him. Well, I was not able to  
25 control him.

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1 Q. Were you grabbing his wrists or --  
2 A. Yes, sir, his wrists.  
3 Q. Okay.  
4 A. Whenever he had extended them out -- and I don't  
5 recall exactly what happened, details about what  
6 happened. I just know that he had gotten to a point  
7 where I was able to get my arms around him and hold onto  
8 him --  
9 Q. Okay.  
10 A. -- and pull them to me.  
11 Q. Okay. So, was it kind of like one of your arms  
12 was around both of his arms?  
13 A. Yes, sir.  
14 Q. Okay. Okay. And at this point, you are still  
15 laid across both Chief Brister and Mr. Jones?  
16 A. Yes, sir.  
17 Q. Okay. And at this point, are they -- are  
18 you-all -- are both of them still on their right side?  
19 A. Yes, sir.  
20 Q. Okay. So, if I'm thinking about this correctly,  
21 both Chief Brister and Mr. Jones, according to you, were  
22 on their right side.  
23 And, so, if this is a -- I won't use that  
24 analogy. But they were both on their right sides, with  
25 Mr. Jones in front of Chief Brister?

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1 A. Yes, sir.  
2 Q. Okay. And you were laid over -- over -- across  
3 both of them holding Mr. Jones' arms?  
4 A. Yes, sir.  
5 Q. Okay. Your thighs would have been close to the  
6 back of Chief Brister?  
7 A. It would have been against his back. Yes, sir.  
8 Q. Okay. Was there ever a time period during this  
9 struggle where -- where you were holding onto Mr. Jones'  
10 arms and Mr. Jones was on top of Chief Brister, that you  
11 recall?  
12 A. I remember the Chief saying he couldn't breathe at  
13 one point. I don't know if that was because I was on top  
14 of him or he was on top of him. I don't recall.  
15 Q. Okay. Okay. And, so, we talked about that  
16 position.  
17 Tell me the position that you were in. You  
18 said that after that happened y'all kind of stayed in a  
19 singletary (sic) position to wait for the -- the backup  
20 to arrive?  
21 A. Yes, sir.  
22 Q. What was the position y'all were in at that point?  
23 A. Just like I told you, with him on his side, me  
24 over the top of them.  
25 Q. At any point during this struggle did you see

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1 you, you know, what was the position that you were in  
2 while y'all were waiting for backup to come?  
3 A. Yes.  
4 Q. Okay. Let me ask you a little more specific  
5 question. So, you were kind of laying across both --  
6 from what I -- from what I -- my understanding of what  
7 you are saying, you were kind of laying across both  
8 Chief Brister and Mr. Jones?  
9 A. Yes, sir.  
10 Q. You had been laying on both of their left sides?  
11 A. Yes, sir.  
12 Q. Okay. So, would you kind of have been laying on  
13 where their left ribs would be, would that be the area?  
14 A. Yes, sir.  
15 Q. Okay. Left torso?  
16 A. Yes, sir.  
17 Q. Okay. And your -- your arm that was holding his  
18 arms, would that have been on Mr. Jones' left ribs or  
19 would that have been in front of his body or...  
20 A. I was trying as much as possible to stay off of  
21 the top of him because the Chief had already said he was  
22 having trouble breathing.  
23 Q. Okay.  
24 A. So, I was trying as much as I could to stay off of  
25 him. I don't recall exactly where my -- you know, my

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1 where Chief Brister's arms were --  
2 A. No, sir.  
3 Q. -- while he was holding onto Mr. Jones?  
4 A. No, sir.  
5 Q. Okay.  
6 MR. CALVERT: We have been going about an  
7 hour. Can we take a short break?  
8 MR. TURNER: I wondering if it had been about  
9 an hour. Yeah, that's fine. Yeah.  
10 THE VIDEOGRAPHER: Off the record at 12:17.  
11 (RECESS TAKEN FROM 12:17 P.M. TO 12:33 P.M.)  
12 THE VIDEOGRAPHER: We're back on the record  
13 at 12:33.  
14 Q. (BY MR. TURNER) Okay. Again, took another break?  
15 A. Yes.  
16 Q. Ready to go?  
17 A. Ready to go.  
18 Q. Okay. I'll just tell you, I don't think I'm going  
19 to be here too much longer. Now, don't quote me on that.  
20 I know -- sometimes I sound like a preacher because I say  
21 we are going to end early, but I don't think we are going  
22 to be here too much longer. Okay?  
23 A. Okay.  
24 Q. So, I just wanted to let you know. All right.  
25 When we left off, I think we were -- I asked

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1 elbows and my arms was, but I was doing my best to stay  
2 off the top of the Chief.  
3 Q. Okay. Now, you -- you said that during this time  
4 period Chief had indicated to you that he was having a  
5 hard time breathing?  
6 A. Yes, sir.  
7 Q. Okay. Did you guys have any other conversation  
8 between the three of you guys at all?  
9 A. Not really a conversation going on at that point.  
10 Q. Okay. Okay. Do you recall any conversation at  
11 this point between the Chief and Mr. Jones?  
12 A. No, sir.  
13 Q. Okay. When you -- when the Chief kind of let you  
14 know -- did he tell you verbally that he was having a  
15 hard time breathing or was that something that you just  
16 know of --  
17 A. I think he said he was -- he couldn't breathe. I  
18 don't remember exactly how he said it or how he put it,  
19 but it was directed at me because I think I was on him.  
20 Q. Okay. Did you refer to him -- I'm sorry. Did you  
21 reply to him?  
22 A. No. My reply was to get off of him as much as I  
23 could.  
24 Q. Okay. Okay. Did you personally reply to any  
25 comment that the Chief made during this time period, that

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1 you could recall?  
2 **A. At one point he said, "Don't turn him loose."**  
3 Q. Okay.  
4 **A. And I think that was about all -- and I told him,**  
5 **"Okay." I think -- that's all I can remember that was**  
6 **said during that.**  
7 Q. Do you know why the Chief said, "Don't turn him  
8 loose," or what prompted him to say it?  
9 **A. I believe it was because he was running out of**  
10 **energy.**  
11 Q. Okay. He was running out of energy and he said  
12 "don't," as in "do not" turn him loose?  
13 **A. Correct.**  
14 Q. Okay. Okay. And what did you say? Did you say  
15 anything or reply to that?  
16 **A. I believe I did. I believe it was more along the**  
17 **lines of "okay," or just acknowledging that I wasn't**  
18 **going to let go.**  
19 Q. Okay. Maybe, like, I wasn't going to -- I am not  
20 going to let go, or something like that?  
21 **A. It probably wasn't that detailed. It was probably**  
22 **"okay."**  
23 Q. Okay. All right. But as far as conversation,  
24 that's -- that's all you recall?  
25 **A. We didn't have enough breath to hold a**

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1 conversation, brother. I'm sorry.  
2 Q. Okay. Approximately how long were you guys in  
3 that situation that we've been kind of describing?  
4 **A. I don't know. I don't know. Whenever you are in**  
5 **it, it seems like it is forever.**  
6 Q. To you it seemed like it was forever?  
7 **A. Yes, sir.**  
8 Q. And per your testimony earlier, Mr. Jones was  
9 still moving around, resisting, struggling at this point?  
10 **A. Yes. Yes, sir.**  
11 Q. Trying to get loose?  
12 **A. Yes, sir.**  
13 Q. And you said at some point suddenly he just  
14 stopped?  
15 **A. Yes, sir, just instantly.**  
16 Q. And what did you do once he stopped?  
17 **A. The witness, Ms. Adams, I believe is what her name**  
18 **is, she come up and asked if we needed any help. I sent**  
19 **her to my patrol car where I keep a bag. It had some**  
20 **medical supplies in it and had an Ambu bag and a set of**  
21 **handcuffs, she brought it to me. We rolled him and**  
22 **handcuffed him, rolled him back to his back, checked for**  
23 **a pulse, and then began CPR.**  
24 Q. Okay. Okay. You said that you noticed that --  
25 you stopped -- he instantly stopped moving and stopped

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1 trying to get loose?  
2 **A. Yes, sir.**  
3 Q. And then once you noticed that, you said you sent  
4 the witness to the patrol car?  
5 **A. Yes, sir.**  
6 Q. Okay. Why -- how long did it take for her to get  
7 to the patrol car and back?  
8 **A. Not long. Patrol car was parked pretty close to**  
9 **us.**  
10 Q. Okay. While she went to the patrol car, were you  
11 still in the same position you were before?  
12 **A. Yes, sir.**  
13 Q. Okay. Was Chief Brister still in the same  
14 position he was before?  
15 **A. Yes, sir.**  
16 Q. Okay. Okay. And, so, when she got back, she had  
17 the handcuffs with her?  
18 **A. They were in the bag.**  
19 Q. They were in the bag?  
20 **A. Yes, sir.**  
21 Q. Okay. I guess when she -- she got the handcuffs  
22 from the car and she came back or did she have the  
23 handcuffs?  
24 **A. I told her where my bag was. I keep a bag in the**  
25 **back of my car --**

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1 Q. Oh, okay.  
2 **A. -- that has -- it has supplies in it, as well as**  
3 **an extra set of handcuffs. She brought me the entire**  
4 **bag.**  
5 Q. Okay. Where was the bag located in your car?  
6 **A. At the time I believe it was in the back. It was**  
7 **in the -- the rear hatch of the vehicle.**  
8 Q. Do you know whether or not she had any trouble  
9 finding it?  
10 **A. No. It was laying right there on the -- it's my**  
11 **go-bag. It's pretty easy to find. It sits right on the**  
12 **very rear of the vehicle.**  
13 Q. Okay. And, so, what happened once she got back  
14 with the bag?  
15 **A. We rolled him, put the handcuffs on him. We**  
16 **didn't know if he was just holding his breath or faking**  
17 **or what was going on. Once I rolled him back to his**  
18 **back, I checked for a pulse and I couldn't find one.**  
19 **That was whenever I started CPR.**  
20 Q. Okay. Okay. Would you say almost as soon as she  
21 got back, y'all went ahead and released y'all's hold on  
22 him?  
23 **A. Yes.**  
24 Q. Okay. And you said that you rolled him onto his  
25 back or on his stomach first?

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<p>1 A. At first we rolled him to his side so we could</p> <p>2 handcuff him to where we could get both arms behind him.</p> <p>3 Q. Okay.</p> <p>4 A. It could have been -- it could have been to his --</p> <p>5 to his face. I don't recall exactly where we rolled him.</p> <p>6 Just enough that we could get the handcuffs on him and</p> <p>7 then roll him back to his back and start CPR.</p> <p>8 Q. Okay. Okay. And after you rolled him back on his</p> <p>9 back, you said you checked for a pulse?</p> <p>10 A. Yes.</p> <p>11 Q. Did you find one?</p> <p>12 A. No.</p> <p>13 Q. How did you check for the pulse?</p> <p>14 A. In his neck and his wrist.</p> <p>15 Q. Okay. And then after you found no -- no -- no</p> <p>16 pulse, you started the CPR?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Okay. Were you helping do the CPR?</p> <p>19 A. Yes, sir, I was.</p> <p>20 Q. Okay.</p> <p>21 A. I was doing chest compressions and Ms. Adams was</p> <p>22 giving breath through an Ambu bag.</p> <p>23 Q. Okay. What was Chief Brister doing at this point?</p> <p>24 A. He was out of breath. He was on his back on his</p> <p>25 cell phone calling 911 for an ambulance.</p> <p style="text-align: right;">98</p>	<p>1 A. Amon Cathey, A-M-O-N C-A-T-H-E-Y.</p> <p>2 Q. Cathey?</p> <p>3 A. Cathey, C-A-T-H-E-Y.</p> <p>4 Q. Okay. When Officer Cathey arrived, you guys had</p> <p>5 already released your hold and were in process of doing</p> <p>6 CPR?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. Now, was the first time that you noticed</p> <p>9 Krissy Adams was when she asked you if y'all needed any</p> <p>10 help?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay. So, you -- before that point, you didn't</p> <p>13 know that there was a witness on scene?</p> <p>14 A. No, sir, not that I recall. I don't recall seeing</p> <p>15 anybody.</p> <p>16 Q. Okay. Do you recall who the other officer was</p> <p>17 that relieved -- because my understanding is</p> <p>18 Officer Cathey came and he relieved you and then somebody</p> <p>19 else came later and they relieved Ms. Adams?</p> <p>20 A. I don't recall exactly which one -- which one it</p> <p>21 was. I know it's in the -- I know it's in the call notes</p> <p>22 from dispatch. The ones I can recall was there was a</p> <p>23 highway patrol, Eric Dunn, that was there, lieutenant of</p> <p>24 narcotics, Scotty Duncan was there, and I believe a few</p> <p>25 more.</p> <p style="text-align: right;">100</p>
<p>1 Q. Okay. Did Chief Brister ever come back and assist</p> <p>2 with the CPR?</p> <p>3 A. He -- he didn't have to. The -- while we were</p> <p>4 doing CPR and he was making the phone call to dispatch to</p> <p>5 get us an ambulance to us, an additional unit, that 614,</p> <p>6 showed up and he relieved me for CPR doing chest</p> <p>7 compressions; and then following that, other units</p> <p>8 arrived that relieved the other people that were</p> <p>9 assisting in the CPR.</p> <p>10 Q. Okay. The unit that you are talking about -- so,</p> <p>11 614, they arrived?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And one of the guys relieved you?</p> <p>14 A. 6 -- 614, it's one unit. It's only just one</p> <p>15 person. He relieved me doing chest compressions.</p> <p>16 Q. And he relieved you.</p> <p>17 And then you said later on another -- was it</p> <p>18 another unit or was it this the EMS that came?</p> <p>19 A. Another -- another unit showed up, arrived on</p> <p>20 scene. Actually, several more units arrived on scene.</p> <p>21 Once they heard the call for help, that I called and</p> <p>22 needed additional units, nearly everybody that was out</p> <p>23 was coming to us.</p> <p>24 Q. Okay. Okay. At the time when 614 arrived -- do</p> <p>25 you know what that officer's name is?</p> <p style="text-align: right;">99</p>	<p>1 Q. Okay. Okay. Okay. How -- how long after this</p> <p>2 second unit arrived did the EMS people arrive on scene?</p> <p>3 A. I don't remember.</p> <p>4 Q. Okay. But it was after the second unit that the</p> <p>5 EMS people arrived?</p> <p>6 A. I know it was after Deputy Cathey showed up that</p> <p>7 EMS arrived. I don't remember how -- how long it was,</p> <p>8 though, or if they arrived after or before the additional</p> <p>9 units got there.</p> <p>10 Q. Okay. Did -- did you ever talk to the -- first of</p> <p>11 all, did you know the EMS people who were -- who arrived</p> <p>12 on scene? Had you ever --</p> <p>13 A. I'm sure I did. I know all of them.</p> <p>14 Q. Okay.</p> <p>15 A. I don't recall which ones it was that was on the</p> <p>16 ambulance. I was still trying to catch my breath --</p> <p>17 Q. I see.</p> <p>18 A. -- whenever they got there.</p> <p>19 Q. Did you ever get a chance to talk with them and --</p> <p>20 and tell them what had happened and what had transpired?</p> <p>21 A. No.</p> <p>22 Q. No.</p> <p>23 Do you know if any officer talked to the EMS</p> <p>24 and let them know what -- what had transpired?</p> <p>25 A. I believe that the other officers that were there</p> <p style="text-align: right;">101</p>

<p>1 did.</p> <p>2 Q. Okay.</p> <p>3 A. I believe they talked to them.</p> <p>4 Q. Do you know if the Chief did?</p> <p>5 A. I don't know. I don't know if he did or not.</p> <p>6 Q. Okay. Were you ever -- were y'all ever able to</p> <p>7 resuscitate Mr. Jones on scene -- let me -- when I say</p> <p>8 "resuscitate," what I mean, were you ever able to get a</p> <p>9 pulse from him?</p> <p>10 A. As far as I know, the last I heard was they had</p> <p>11 got a pulse whenever they were loading him in the</p> <p>12 ambulance.</p> <p>13 Q. And this is the EMS who got a pulse from him or</p> <p>14 one of the officers?</p> <p>15 A. Well, EMS was on scene. As far as I know, it was</p> <p>16 them.</p> <p>17 Q. Okay. Now, during the time period where you say</p> <p>18 that they were both on their sides and you were laying</p> <p>19 over Mr. Jones and Chief Brister, at that time period you</p> <p>20 weren't in imminent fear of serious bodily harm or</p> <p>21 injury, were you, for yourself?</p> <p>22 A. Well, if he had got free and continued to do what</p> <p>23 he was doing before, then, yes.</p> <p>24 Q. I mean --</p> <p>25 A. At the time, was I? No, not at that -- that</p> <p style="text-align: right;">102</p>	<p>1 A. I didn't hear anything after that.</p> <p>2 Q. I mean -- and you do understand that Mr. Jones</p> <p>3 passed away --</p> <p>4 A. Yeah.</p> <p>5 Q. -- later on that next day?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Okay. Was there any type of animosity between the</p> <p>8 EMS people and the Kirbyville police officers?</p> <p>9 A. No, sir.</p> <p>10 Q. Y'all generally work hand in hand?</p> <p>11 A. Yes, sir.</p> <p>12 Q. After the EMS took Mr. Jones, what did you do</p> <p>13 next?</p> <p>14 A. I don't remember exactly what I done. I know I</p> <p>15 had to go to the hospital to get my -- my hands x-rayed.</p> <p>16 Q. Okay. And that was from the -- when Chief Brister</p> <p>17 hit you with the flashlight?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. Did you have any other bruises or anything</p> <p>20 like that?</p> <p>21 A. My right hand was -- was swollen a little bit.</p> <p>22 Q. Okay.</p> <p>23 A. I don't know where it come from. I don't know if</p> <p>24 it was during the altercation or -- or how that it</p> <p>25 actually happened.</p> <p style="text-align: right;">104</p>
<p>1 moment.</p> <p>2 Q. Okay. Okay. And, obviously, if he were to get</p> <p>3 free and he had a knife or had a gun --</p> <p>4 A. Right.</p> <p>5 Q. -- then at that point, you would have been in</p> <p>6 fear?</p> <p>7 A. Yes.</p> <p>8 Q. But at this specific time, you weren't in imminent</p> <p>9 fear?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. And, so, about how long do you recall the</p> <p>12 EMS coming -- well, let me rephrase the question.</p> <p>13 About how long was it that the EMS were on</p> <p>14 the scene prior to them taking Mr. Jones for treatment,</p> <p>15 do you recall?</p> <p>16 A. No, sir.</p> <p>17 Q. Okay. And, now, while you heard -- you heard that</p> <p>18 they got a pulse from him. From your observation was</p> <p>19 Mr. Jones ever responsive after you and Chief Brister</p> <p>20 released your restraints from him?</p> <p>21 A. No, sir.</p> <p>22 Q. Okay. To your knowledge, did he ever become</p> <p>23 responsive again after that?</p> <p>24 A. I don't know.</p> <p>25 Q. Okay.</p> <p style="text-align: right;">103</p>	<p>1 Q. Okay. Did you have to go seek any treatment</p> <p>2 passed that first checkup?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. What about Chief Brister? Do you know if</p> <p>5 he had to seek any treatment?</p> <p>6 A. No, sir, he didn't.</p> <p>7 Q. Okay. Throughout this whole incident, you and</p> <p>8 Chief Brister never found a weapon on him --</p> <p>9 A. No, sir.</p> <p>10 Q. -- Mr. Jones?</p> <p>11 A. No, sir.</p> <p>12 Q. Okay. Is it your understanding that -- well,</p> <p>13 first, let me ask you this: Do you have any knowledge or</p> <p>14 training on the effects of synthetic marijuana on the</p> <p>15 body?</p> <p>16 A. I have a little knowledge of it, yes, sir.</p> <p>17 Q. Okay. Why don't you tell me what you know.</p> <p>18 A. Most of what I just hear from other people. It</p> <p>19 causes problems with your brain and your heart. I talked</p> <p>20 to a few people and researched it a little bit online.</p> <p>21 Q. Okay. At the time when this happened, was</p> <p>22 synthetic marijuana, was it illegal?</p> <p>23 A. Yes, I believe it was.</p> <p>24 Q. Okay. Do you know what its effect is on a person</p> <p>25 who is using it? To -- to get some type of high, I</p> <p style="text-align: right;">105</p>

<p>1 guess?</p> <p>2 <b>A. As far as I know, yes, sir. Just supposed to be a</b></p> <p>3 <b>high like you would off of marijuana.</b></p> <p>4 Q. Okay. About the same?</p> <p>5 <b>A. I don't know. I couldn't tell you.</b></p> <p>6 Q. Okay. From -- but from your understanding, is it</p> <p>7 about the same?</p> <p>8 <b>A. Yes, sir.</b></p> <p>9 MR. TURNER: Are you guys going to have any</p> <p>10 questions?</p> <p>11 MR. CALVERT: Maybe one or two, but that's</p> <p>12 all.</p> <p>13 MR. TURNER: Okay.</p> <p>14 Q. (BY MR. TURNER) Okay. When you guys arrived on</p> <p>15 the scene, Mr. Jones, he wasn't in the act of harming</p> <p>16 another person at that point, that you know of?</p> <p>17 <b>A. Not that I know of, no, sir.</b></p> <p>18 Q. Okay. And at the time when you guys arrived, did</p> <p>19 you have any indication that he had just committed a</p> <p>20 crime involving a threat of violence to another person or</p> <p>21 himself?</p> <p>22 <b>A. No, sir.</b></p> <p>23 Q. Did you ever hear Ms. Adams try to make a phone</p> <p>24 call to -- to dispatch while you guys were on the ground?</p> <p>25 <b>A. I don't remember. I don't -- I don't recall if</b></p> <p style="text-align: right;">106</p>	<p>1 the handcuffs on Mr. Jones, that you had advised him he</p> <p>2 had warrants. Tell me, as best you recall, what exactly</p> <p>3 you said then.</p> <p>4 <b>A. I advised him of his warrants out of</b></p> <p>5 <b>Jefferson County and advised him that he would be placed</b></p> <p>6 <b>under arrest and transported to the Jasper County Jail.</b></p> <p>7 MR. CALVERT: Okay. I believe that's all the</p> <p>8 questions I have.</p> <p>9 MR. TURNER: I thought it would give me a</p> <p>10 little more time.</p> <p>11 Can we take a quick break?</p> <p>12 MR. CALVERT: Sure.</p> <p>13 THE VIDEOGRAPHER: Off the record at 12:57.</p> <p>14 (RECESS TAKEN FROM 12:57 P.M. TO 1:04 P.M.)</p> <p>15 THE VIDEOGRAPHER: We're back on the record</p> <p>16 at 1:04.</p> <p>17 REEXAMINATION</p> <p>18 (1:04 P.M.)</p> <p>19 BY MR. TURNER:</p> <p>20 Q. Okay. Back on the record, Okay.</p> <p>21 I got about eight more questions for you.</p> <p>22 <b>A. Give them to me.</b></p> <p>23 Q. If Chief Brister, in his statement, said that two</p> <p>24 of the arrest warrants were for probation violations,</p> <p>25 would you disagree with that?</p> <p style="text-align: right;">108</p>
<p>1 <b>she did or not.</b></p> <p>2 Q. Okay.</p> <p>3 MR. TURNER: Can we take a quick break, let</p> <p>4 me look and see if I have any more notes, unless you want</p> <p>5 to ask questions and then I could just come back. It's</p> <p>6 up to you.</p> <p>7 MR. CALVERT: However you want to do it.</p> <p>8 MR. TURNER: You want to ask your questions?</p> <p>9 MR. CALVERT: I can.</p> <p>10 MR. TURNER: Okay.</p> <p>11 EXAMINATION</p> <p>12 (12:57 P.M.)</p> <p>13 BY MR. CALVERT:</p> <p>14 Q. Sergeant Hancock, I just have a couple of</p> <p>15 questions. With regard to the warrants for Mr. Jones, if</p> <p>16 the records indicate that Arrest Warrant 14643 for sexual</p> <p>17 assault of a child was one of the warrants; another</p> <p>18 warrant was Warrant 10-09856 for the offense of</p> <p>19 aggravated assault; and the other warrant was Warrant</p> <p>20 10-10523 for the offense of aggravated robbery, would you</p> <p>21 have any reason to disagree that those were the warrants</p> <p>22 that y'all were serving on that occasion?</p> <p>23 <b>A. No, sir, I wouldn't.</b></p> <p>24 Q. Now, you indicated before the handcuffs were</p> <p>25 placed on Mr. Jones -- or before you attempted to place</p> <p style="text-align: right;">107</p>	<p>1 <b>A. I can't really recall exactly what they are for.</b></p> <p>2 <b>A lot of times in the offense, it will come in and it</b></p> <p>3 <b>will say it's for -- like what he was saying -- you know,</b></p> <p>4 <b>sexual assault or aggravated robbery or something, and</b></p> <p>5 <b>they don't tell us that it's a probation violation. They</b></p> <p>6 <b>just tell us what the original offense title was.</b></p> <p>7 <b>So, he may have seen something that I didn't</b></p> <p>8 <b>and it may have been for probation violations, but I</b></p> <p>9 <b>don't know.</b></p> <p>10 Q. Okay. Do you recall writing a statement after</p> <p>11 these events?</p> <p>12 <b>A. I'm sorry?</b></p> <p>13 Q. Do you recall writing a statement after these</p> <p>14 events?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Okay. And that statement was as true as you could</p> <p>17 be about what happened during --</p> <p>18 <b>A. Yes, sir.</b></p> <p>19 Q. Okay. What's your understanding of what was the</p> <p>20 cause of death for Mr. Jones?</p> <p>21 <b>A. I've -- I've heard excited delirium and heart</b></p> <p>22 <b>attack.</b></p> <p>23 Q. What was the first one?</p> <p>24 <b>A. Excited delirium.</b></p> <p>25 Q. What's "excited delirium"?</p> <p style="text-align: right;">109</p>

1 **A. I don't know. That would be something to ask the**  
2 **doctors.**  
3 Q. Excited delirium. Okay.  
4 Do you think that any of your actions or the  
5 actions of Chief Brister contributed to his death?  
6 **A. I don't see how they could. I don't -- I don't.**  
7 Q. Okay. Okay. Last thing, I'm just going to read  
8 two statements to you and I just want to know if you  
9 agree or disagree with those statements.  
10 The first one is (reading): No greater force  
11 however, shall be resorted to than is reasonable and  
12 necessary to secure the arrest and detention of the  
13 accused?  
14 **A. Yes.**  
15 Q. Did you agree with that?  
16 **A. Yes, sir.**  
17 Q. Okay. I guess, specifically, I'm going to ask  
18 you: Do you agree that no greater force shall be  
19 resorted to than as reasonably necessary to secure  
20 detention -- arrest and detention of the accused?  
21 **A. Yes.**  
22 Q. Any time the level of resistance by a person is  
23 increased or decreased, the officer must adjust his level  
24 of response accordingly?  
25 **A. Yes.**

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1 Q. Okay. So, meaning, if the accused ramps up his  
2 level of resistance, than the officer can ramp up his  
3 level of force used?  
4 **A. Yes.**  
5 Q. But, Officer, is it always true that if the  
6 accused decreases their level of resistance, then the  
7 officer shall also decrease the level of force they are  
8 using?  
9 **A. Depending on the circumstance. I would have to**  
10 **say that if they were -- if a man was holding a gun, it**  
11 **would be different. It just depends on the circumstance**  
12 **on that --**  
13 Q. Okay.  
14 **A. -- whether you would go back instead of forward.**  
15 Q. Is there any other -- is there anything else that  
16 you recall, either yourself or Chief Brister, saying to  
17 Mr. Jones during the time period y'all were trying to  
18 effect this arrest that we haven't talked about yet?  
19 **A. Not that I can recall. I don't -- I don't**  
20 **remember.**  
21 Q. Okay. Do you agree with me that this is a  
22 pretty -- I mean, this is not something that happens  
23 every day in your career?  
24 **A. No, sir, it's not.**  
25 Q. So, this situation is pretty memorable?

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1 **A. Yes, sir.**  
2 Q. Have you understood all my questions that you've  
3 answered today?  
4 **A. I was a little confused about a couple of them,**  
5 **but I think I understood them for the most part.**  
6 Q. Well, the ones that you were confused about, did  
7 you ask me to rephrase those questions?  
8 **A. I believe I did.**  
9 Q. Okay. All right. And was I polite today?  
10 **A. Yes, sir, you were.**  
11 Q. Okay.  
12 MR. TURNER: With that, I will pass the  
13 witness.  
14 MR. CALVERT: We will reserve our questions.  
15 THE VIDEOGRAPHER: Off the record at 1:09.  
16 THE REPORTER: Would you like him to read and  
17 sign?  
18 MR. CALVERT: Please.  
19 (VIDEO DEPOSITION CONCLUDED AT 1:09 P.M.)  
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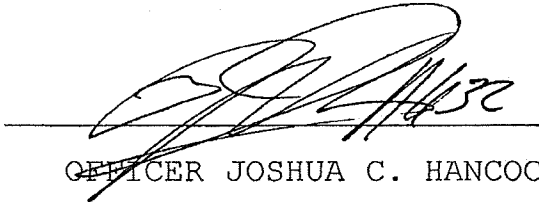
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1 ERRATA SHEET  
2 DEPOSITION OF: OFFICER JOSHUA C. HANCOCK, MARCH 1, 2016  
3 PAGE LINE CHANGE REASON  
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25 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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<p>1 I, OFFICER JOSHUA C. HANCOCK, have read the foregoing  2 deposition and hereby affix my signature that same is  3 true and correct, except as noted above.  4  5  6 OFFICER JOSHUA C. HANCOCK  7  8 THE STATE OF _____ )  9 COUNTY OF _____ )  10 Before me, _____, on this day  11 personally appeared OFFICER JOSHUA C. HANCOCK, known to  12 me (or proved to me under oath or through  13 _____) (description of identity card or  14 other document) to be the person whose name is subscribed  15 to the foregoing instrument and acknowledged to me that  16 they executed the same for the purposes and consideration  17 therein expressed.  18 Given under my hand and seal of office this _____  19 day of _____, 2016.  20  21  22 NOTARY PUBLIC IN AND FOR  23 THE STATE OF _____  24  25</p> <p style="text-align: right;">114</p>	<p>1 Witness;  2 That the original deposition was delivered to  3 MR. RONNIE TURNER, JR.;  4 That the amount of time used by each party at the  5 deposition is as follows:  6 MR. TURNER: (02 HOURS:13 MINUTES)  7 MR. CALVERT: (01 MINUTE)  8 That \$ _____ is the deposition officer's charge  9 to the PLAINTIFF for preparing the original deposition  10 transcript and any copies of exhibits.  11 That pursuant to information given to the deposition  12 officer at the time said testimony was taken, the  13 following includes all parties of record:  14 FOR THE PLAINTIFF:  15 Mr. Ronnie Turner, Jr.  16 SBOT NO. 24075533  17 PROVOST * UMPHREY LAW FIRM, L.L.P.  18 490 Park Street  19 Beaumont, Texas 77701  20 FOR THE DEFENDANTS:  21 Mr. Frank D. Calvert  22 SBOT NO. 03667700  23 CALVERT EAVES CLARKE &amp; STELLY, L.L.P.  24 2615 Calder Avenue, Suite 1070  25 Beaumont, Texas 77702</p> <p style="text-align: right;">116</p>
<p>1 IN THE UNITED STATES DISTRICT COURT  2 FOR THE EASTERN DISTRICT OF TEXAS  3 BEAUMONT DIVISION  4 SHAWNTEL BREED, )  5 INDIVIDUALLY AND AS )  6 REPRESENTATIVE OF THE )  7 ESTATE OF DUSTIN )  8 KEITH JONES, )  9 DECEASED, AND AS NEXT )  10 FRIEND OF DJ AND CJ, )  11 MINOR CHILDREN )  12 )  13 Plaintiff )  14 )  15 VS. ) CIVIL ACTION NO: 1:15-CV-190  16 )  17 CITY OF KIRBYVILLE, ) JURY DEMANDED  18 CHIEF PAUL BRISTER, )  19 AND OFFICER JOSH )  20 HANCOCK OF THE CITY )  21 OF KIRBYVILLE POLICE )  22 DEPARTMENT, )  23 INDIVIDUALLY, AND IN )  24 THEIR OFFICIAL )  25 CAPACITIES )  26 )  27 Defendants. )</p> <p>16  17 REPORTER'S CERTIFICATION  18 DEPOSITION OF OFFICER JOSHUA C. HANCOCK  19 MARCH 1, 2016  20 I, CARLY MICHELLE BARTON, Certified Shorthand Reporter  21 in and for the State of Texas, hereby certify to the  22 following:  23 That the Witness, OFFICER JOSHUA C. HANCOCK, was duly  24 sworn by the officer and that the transcript of the oral  25 deposition is a true record of the testimony given by the</p> <p style="text-align: right;">115</p>	<p>1 I further certify that I am neither counsel for,  2 related to, nor employed by any of the parties or  3 attorneys in the action in which this proceeding was  4 taken, and further that I am not financially or otherwise  5 interested in the outcome of the action.  6 Further certification requirements pursuant to the  7 Federal Rules of Civil Procedure will be certified to  8 after they have occurred.  9 SWORN TO AND SUBSCRIBED by me in Beaumont, Texas, on  10 this _____ day of _____, 2016.  11  12  13 CARLY MICHELLE BARTON  14 Texas CSR No. 8985/Louisiana CCR No. 2015004  15 Expiration Date: December 31, 2016  16 Nell McCallum &amp; Associates, Inc.  17 Firm Registration No. 143  18 2615 Calder Avenue, Suite 111  19 Beaumont, Texas 77702  20 (409) 838-0333/(409) 832-4501  21  22  23  24  25</p> <p style="text-align: right;">117</p>

1 I, OFFICER JOSHUA C. HANCOCK, have read the foregoing  
 2 deposition and hereby affix my signature that same is  
 3 true and correct, except as noted above.

4  
 5   
 6 OFFICER JOSHUA C. HANCOCK

7  
 8 THE STATE OF TEXAS )

9 COUNTY OF TASPER )

10 Before me, OFFICER Joshua C. Hancock, on this day

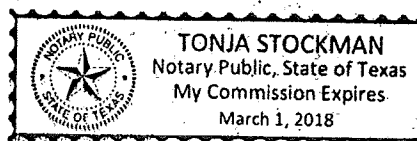
11 personally appeared OFFICER JOSHUA C. HANCOCK, known to  
 12 me (or proved to me under oath or through

13 DRIVERS LICENSE ) (description of identity card or  
 14 other document) to be the person whose name is subscribed  
 15 to the foregoing instrument and acknowledged to me that  
 16 they executed the same for the purposes and consideration  
 17 therein expressed.

18 Given under my hand and seal of office this 18th  
 19 day of April, 2016.

20   
 21  
 22 NOTARY PUBLIC IN AND FOR

23 THE STATE OF TEXAS





## ERRATA SHEET

DEPOSITION OF: OFFICER JOSHUA C. HANCOCK, MARCH 1, 2016

PAGE	LINE	CHANGE	REASON
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Signature:

Date:

NELL MCCALLUM & ASSOCIATES  
CARLY MICHELLE BARTON, CSR